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Part 124 - Subpart A—General Program Requirements	<b>Part 124 – General Program Requirements – Sections 3.0-19.0</b>	
<b>§ 124.1 Purpose and scope.</b>	<b>Section 3.0 Purpose and scope.</b>	<b>§124.1 Purpose and scope.</b>
(a) This part contains EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES “permits” (including “sludge-only” permits issued pursuant to §122.1(b)(2) of this chapter. The latter kinds of permits are governed by part 270. RCRA interim status and UIC authorization by rule are not “permits” and are covered by specific provisions in parts 144, subpart C, and 270. This part also does not apply to permits issued, modified, revoked and reissued or terminated by the Corps of Engineers. Those procedures are specified in 33 CFR parts 320–327. The procedures of this part also apply to denial of a permit for the active life of a RCRA hazardous waste management facility or unit under §270.29.	3.1 Part 124 (Sections 3.0-19.0) contains DNREC procedures for issuing, modifying, revoking and reissuing, or terminating all UIC permits. UIC Rule Authorization letters are not "permits."	(a) This Part contains DNREC procedures for issuing, modifying, revoking and reissuing, or terminating all UIC "permits" other than UIC "emergency permits" (see §122.30). The latter kinds of permits are governed by Subpart A of Part 122. UIC authorizations by rule are not "permits" and are covered by specific provisions in Subpart A of Part 122.
(b) Part 124 is organized into four subparts. Subpart A contains general procedural requirements applicable to all permit programs covered by these provisions. Subparts B through D supplement these general provisions with requirements that	3.2 This Part contains general procedural requirements applicable to all permit programs covered by these regulations. This Part describes the steps the Department will follow in receiving and reviewing permit	(b) Subpart A describes the steps DNREC will follow in receiving permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits. Subpart A also covers

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<p>apply to only one or more of the programs. Subpart A describes the steps EPA will follow in receiving permit applications, preparing draft permits, issuing public notices, inviting public comment and holding public hearings on draft permits. Subpart A also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of final permit decisions. Subpart B contains specific procedural requirements for RCRA permits. Subpart C contains definitions and specific procedural requirements for PSD permits. Subpart D contains specific procedural requirements for NPDES permits.</p>	<p>applications, preparing draft permits, issuing public notices, inviting public comment, and holding public hearings on draft permits. This Part also sets out procedures for assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeals of final permit decisions.</p>	<p>assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision.</p>
<p>(c) Part 124 offers an opportunity for public hearings (see §124.12).</p>	<p>3.3 This Part offers an opportunity for public hearings (see <b>7 Del.C. §6006</b>).</p>	<p>(c) Part 124 offers an opportunity for a public hearing under Subpart A.</p>
<p>(d) This part is designed to allow permits for a given facility under two or more of the listed programs to be processed separately or together at the choice of the Regional Administrator. This allows EPA to combine the processing of permits only when appropriate, and not necessarily in all cases. The Regional Administrator may consolidate permit processing when the permit applications are submitted, when</p>	<p>3.4 This Part is designed to allow permits for a given facility under two or more of the listed programs to be processed separately or together at the discretion of the Department. This allows DNREC to combine the processing of permits when, in the Department's judgment, combined processing is appropriate and not necessarily in all cases. The Department may consolidate</p>	

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draft permits are prepared, or when final permit decisions are issued. This part also allows consolidated permits to be subject to a single public hearing under §124.12. Permit applicants may recommend whether or not their applications should be consolidated in any given case.	permit processing when the permit applications are submitted, when draft permits are prepared, or when final permit decisions are issued. This part also allows consolidated permits to be subject to a single public hearing under <b>7 Del.C. §6006</b> , Public Hearings. Permit applicants may request that their applications should be consolidated in any given case, but such decision remains within the Department's discretion.	
(e) Certain procedural requirements set forth in part 124 must be adopted by States in order to gain EPA approval to operate RCRA, UIC, NPDES, and 404 permit programs. These requirements are listed in §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA) and signaled by the following words at the end of the appropriate part 124 section or paragraph heading: (applicable to State programs see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). Part 124 does not apply to PSD permits issued by an approved State.		
(f) To coordinate decision-making when different permits will be issued by EPA and approved State programs, this part allows	<b>3.5</b> To coordinate decision-making when different permits will be issued by EPA and DNREC programs, this part	(d) To coordinate decision-making when different permits will be issued by EPA and approved State programs, this Part

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applications to be jointly processed, joint comment periods and hearings to be held, and final permits to be issued on a cooperative basis whenever EPA and a State agree to take such steps in general or in individual cases. These joint processing agreements may be provided in the Memorandum of Agreement developed under §§123.24 (NPDES), 145.24 (UIC), 233.24 (404), and 271.8 (RCRA).	allows applications to be jointly processed, joint comment periods and hearings to be held, and final permits to be issued on a cooperative basis whenever EPA and DNREC agree to take such steps in general or in individual cases. These joint processing agreements may be provided in a future Memorandum of Agreement.	allows applications to be jointly processed, joint comment periods and hearings to be held, and final permits to be issued on a cooperative basis whenever EPA and a State agree to take such steps in general or in individual cases. These joint processing agreements may be provided in Memorandum of Agreement.
<b>§ 124.2 Definitions</b>	<b>4.0 Acronyms and Definitions:</b>	
	The following words and phrases, when used in these Regulations, have the meaning ascribed to them as follows, unless the text clearly indicates otherwise:	
	<i>(not shown here – listed in draft regs)</i>	
<b>§ 124.3 Application for a permit</b>	<b>Section 5.0 Application for a permit</b>	<b>§124.3 Application for a permit.</b>
(a) Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).	5.1 Applicability.	(a)(1) Any person who requires a permit under the UIC program shall complete, sign, and submit to the Secretary an application for each permit required under §122.21.
(1) Any person who requires a permit under the RCRA, UIC, NPDES, or PSD programs shall complete, sign, and submit	5.1.1 Any person who is required to obtain a permit under the UIC program shall complete, sign, and submit to the	

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to the Director an application for each permit required under Secs. 270.1 (RCRA), 144.1 (UIC), 40 CFR 52.21 (PSD), and 122.1 (NPDES).  Applications are not required for RCRA permits by rule (Sec. 270.60), underground injections authorized by rules (Secs. 144.21 through 144.26), NPDES general permits (Sec. 122.28) and 404 general permits (Sec. 233.37).	Department an application for each permit required under Section 32.0 of these Regulations.	
(2) The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. See Secs. 270.10, 270.13 (RCRA), 144.31 (UIC), 40 CFR 52.21 (PSD), and 122.21 (NPDES).	5.1.2 The Department shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit.	(2) The Secretary shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. See §122.4, and 122.28.
(3) Permit applications (except for PSD permits) must comply with the signature and certification requirements of Secs. 122.22 (NPDES), 144.32 (UIC), 233.6 (404), and 270.11 (RCRA).	5.1.3 Permit applications must comply with the signature and certification requirements of Section 33.0 of these Regulations.	(3) Permit applications must comply with the signature and certification requirements of §122.6.
(b) [Reserved]		
(c) The Regional Administrator shall review for completeness every application for an EPA-issued permit. Each application for an EPA-issued permit submitted by a new HWM facility, a new UIC injection well, a major PSD stationary source or major PSD modification, or an NPDES	5.2 The Department shall review for completeness every application for a permit. If the application is incomplete, the Department shall list in writing the information necessary to make the application complete. When the application is for an existing UIC	

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<p>new source or NPDES new discharger should be reviewed for completeness by the Regional Administrator within 30 days of its receipt. Each application for an EPA-issued permit submitted by an existing HWM facility (both Parts A and B of the application), existing injection well or existing NPDES source or sludge-only facility should be reviewed for completeness within 60 days of receipt. Upon completing the review, the Regional Administrator shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Regional Administrator shall list the information necessary to make the application complete. When the application is for an existing HWM facility, an existing UIC injection well or an existing NPDES source or "sludge-only facility" the Regional Administrator shall specify in the notice of deficiency a date for submitting the necessary information. The Regional Administrator shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the Regional Administrator may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an</p>	<p>injection well the Department may specify in writing a date for submitting the necessary information. After the application is completed, the Department may request additional information from an applicant when necessary to clarify, modify, or supplement previously submitted material.</p>	

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application incomplete.		
(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provision including RCRA section 3008, SDWA sections 1423 and 1424, CAA section 167, and CWA sections 308, 309, 402(h), and 402(k).	5.3 If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provision. (see <b>7 Del.C. §6005</b> )	
(e) If the Regional Administrator decides that a site visit is necessary for any reason in conjunction with the processing of an application, he or she shall notify the applicant and a date shall be scheduled.	5.4 If the Department decides that a site visit is necessary for any reason in conjunction with the processing of an application, he or she shall notify the applicant and a date shall be scheduled. This does not preclude unannounced site visits.	
(f) The effective date of an application is the date on which the Regional Administrator notifies the applicant that the application is complete as provided in paragraph (c) of this section.	5.5 The effective date of an application is the date on which the Department notifies the applicant that the application is complete.	
(g) For each application from a major new HWM facility, major new UIC injection well, major NPDES new source, major NPDES new discharger, or a permit to be issued under provisions of Sec. 122.28(c), the Regional Administrator shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. (This paragraph does not apply to PSD permits.) The schedule		



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<p>shall specify target dates by which the Regional Administrator intends to:</p> <p>(1) Prepare a draft permit;</p> <p>(2) Give public notice;</p> <p>(3) Complete the public comment period, including any public hearing; and</p> <p>(4) Issue a final permit.</p>		
	<p>5.6 Large on-site wastewater treatment and disposal system application requirements are governed by the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems</u>, or <u>Regulations Governing the Control of Water Pollution</u>, and do not require a separate UIC permit.</p>	
<p><b>Sec. 124.4 Consolidation of permit processing</b></p>	<p><b>Section 6.0 Consolidation of permit processing</b></p>	
<p>(a)(1) Whenever a facility or activity requires a permit under more than one statute covered by these regulations, processing of two or more applications for those permits may be consolidated. The first step in consolidation is to prepare each draft permit at the same time.</p>	<p>6.1 Whenever a facility or activity requires a permit under more than one statute covered by these regulations, processing of two or more applications for those permits may be consolidated. The first step in consolidation is to prepare each draft permit at the same time.</p>	



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(2) Whenever draft permits are prepared at the same time, the statements of basis (required under Sec. 124.7 for EPA-issued permits only) or fact sheets (Sec. 124.8), administrative records (required under Sec. 124.9 for EPA-issued permits only), public comment periods (Sec. 124.10), and any public hearings (Sec. 124.12) on those permits should also be consolidated. The final permits may be issued together. They need not be issued together if in the judgment of the Regional Administrator or State Director(s), joint processing would result in unreasonable delay in the issuance of one or more permits.	6.2 Whenever draft permits are prepared at the same time, fact sheets (Section 9.0), public comment periods (Section 10.0), and any public hearings conducted pursuant to <b>7 Del.C. §6006</b> or any amending or superseding legislation on those permits may also be consolidated. The final permits may be issued together. They need not be issued together if in the judgment of the Department, joint processing would result in unreasonable delay in the issuance of one or more permits.	
(b) Whenever an existing facility or activity requires additional permits under one or more of the statutes covered by these regulations, the permitting authority may coordinate the expiration date(s) of the new permit(s) with the expiration date(s) of the existing permit(s) so that all permits expire simultaneously. Processing of the subsequent applications for renewal permits may then be consolidated.	6.3 Whenever an existing facility or activity requires additional permits under one or more of the statutes covered by these Regulations, the Department may coordinate the expiration date(s) of the new permit(s) with the expiration date(s) of the existing permit(s) so that all permits expire simultaneously. Processing of the subsequent applications for renewal permits may then be consolidated.	
(c) Processing of permit applications under paragraph (a) or (b) of this section may be consolidated as follows:	6.4 Processing of permit applications may be consolidated as follows:	
(1) The Director may consolidate permit processing at his or her discretion	The Department may consolidate permit processing and or draft permits at the	

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whenever a facility or activity requires all permits either from EPA or from an approved State.	Department's discretion whenever a facility or activity requires multiple DNREC permits.	
(2) The Regional Administrator and the State Director(s) may agree to consolidate draft permits whenever a facility or activity requires permits from both EPA and an approved State.		
(3) Permit applicants may recommend whether or not the processing of their applications should be consolidated.		
(d) [Reserved]		
(e) Except with the written consent of the permit applicant, the Regional Administrator shall not consolidate processing a PSD permit with any other permit under paragraph (a) or (b) of this section when to do so would delay issuance of the PSD permit more than one year from the effective date of the application under Sec. 124.3(f).		
<b>Sec. 124.5 Modification, revocation and reissuance, or termination of permits.</b>	<b>Section 7.0 Modification, revocation and reissuance, or termination of permits.</b>	<b>§124.4 Modification, revocation and reissuance, or termination of permits.</b>
(a) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). Permits (other than PSD permits) may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director's initiative. However, permits may	7.1 Permits may be modified, revoked and reissued, or terminated upon the Department's directive or public initiative only for the reasons specified in Sections 40.0 or 41.0. Any public requests for information, access or action regarding draft permits must be made during the public comment period.	(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Secretary's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in §122.15 or 122.16. All

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only be modified, revoked and reissued, or terminated for the reasons specified in Sec. 122.62 or Sec. 122.64 (NPDES), 144.39 or 144.40 (UIC), 233.14 or 233.15 (404), and 270.41 or 270.43 (RCRA). All requests shall be in writing and shall contain facts or reasons supporting the request.	After the public comment period has closed and a permit has been issued, any public requests for modification, revocation, reissuance or termination of a permit shall be submitted in writing and contain meritorious facts or reasons supporting the request.	requests shall be in writing and shall contain facts or reasons supporting the request.
(b) If the Director decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Regional Administrator may be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts. The Environmental Appeals Board may direct the Regional Administrator to begin modification, revocation and reissuance, or termination proceedings under paragraph (c) of this section. The appeal shall be considered denied if the Environmental Appeals Board takes no action on the letter within 60 days after receiving it. This informal appeal is, under 5 U.S.C. 704, a prerequisite to seeking judicial review of EPA action in denying a request for modification, revocation and reissuance, or termination.	7.2 If the Department decides a request for modification, revocation, reissuance or termination of a permit is not justified, the Department shall send the requester a brief written response giving the reason or reasons for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Hearings arising from denials of requests for modification, revocation and reissuance, or termination shall be conducted as specified in <b>7 Del.C. §6008</b> .	(b) If the Secretary decides the request is not justified, he or she shall send the requested a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.

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(c) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). (1) If the Director tentatively decides to modify or revoke and reissue a permit under Secs. 122.62 (NPDES), 144.39 (UIC), 233.14 (404), or 270.41 or 270.42(c) (RCRA), he or she shall prepare a draft permit under Sec. 124.6 incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.	<p>7.3 Permit Modification, Revocation and Reissuance.</p> <p>7.3.1 If the Department tentatively decides to modify or revoke and reissue a permit under Section 40.0, the Department shall prepare a draft permit under Section 8.0, incorporating the proposed changes. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Department shall require the submission of a new application.</p>	(c)(1) If the Secretary tentatively decides to modify or revoke and reissue a permit under §122.15, he or she shall prepare a draft permit under §124.5 incorporating the proposed changes. The Secretary may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Secretary shall require the submission of a new application.
(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the	7.3.2 When a permit is modified or revoked and reissued under this Section, the entire permit may be reopened just as if the permit had expired and was being reissued. During any modification, revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued, provided that a complete UIC application was submitted at least 180	(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and

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permittee shall comply with all conditions of the existing permit until a new final permit is reissued.	days prior to the expiration of the permit. (see Section 38.0).	reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
(3) ``Minor modifications" as defined in Secs. 122.63 (NPDES), 144.41 (UIC), and 233.16 (404), and ``Classes 1 and 2 modifications" as defined in Sec. 270.42 (a) and (b) (RCRA) are not subject to the requirements of this section.	7.3.3 "Minor modifications" as defined in Section 42.0 are not subject to the requirements of this Section.	(3) "Minor modifications" as defined in §122.17 are not subject to the requirements of this section.
(d) (Applicable to State programs, see Secs. 123.25 (NPDES) of this chapter, 145.11 (UIC) of this chapter, and 271.14 (RCRA) of this chapter). (1) If the Director tentatively decides to terminate: A permit under Sec. 144.40 (UIC) of this chapter, a permit under Secs. 122.64(a) (NPDES) of this chapter or 270.43 (RCRA) of this chapter (for EPA-issued NPDES permits, only at the request of the permittee), or a permit under Sec. 122.64(b) (NPDES) of this chapter where the permittee objects, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under Sec. 124.6 of this chapter.	7.4 If the Department tentatively decides to terminate a permit under Section 41.0 where the permittee objects, the Department shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under Section 8.0.	(d) If the Secretary tentatively decides to terminate a permit under §122.16, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under §124.5.
(2) For EPA-issued NPDES or RCRA permits, if the Director tentatively decides to terminate a permit under Sec. 122.64(a) (NPDES) of this chapter, other than at the		

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request of the permittee, or decides to conduct a hearing under section 3008 of RCRA in connection with the termination of a RCRA permit, he or she shall prepare a complaint under 40 CFR 22.13 and 22.44 of this chapter. Such termination of NPDES and RCRA permits shall be subject to the procedures of part 22 of this chapter.		
(3) In the case of EPA-issued permits, a notice of intent to terminate or a complaint shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved State under Secs. 123.24(b)(1) (NPDES) of this chapter, 145.25(b)(1) (UIC) of this chapter, 271.8(b)(6) (RCRA) of this chapter, or 501.14(b)(1) (sludge) of this chapter. In addition, termination of an NPDES permit for cause pursuant to Sec. 122.64 of this chapter may be accomplished by providing written notice to the permittee, unless the permittee objects.		
(e) When EPA is the permitting authority, all draft permits (including notices of intent to terminate) prepared under this section shall be based on the administrative record as defined in Sec. 124.9.		
(f) (Applicable to State programs, see Sec. 233.26 (404)). Any request by the permittee for modification to an existing 404 permit (other than a request for a minor		



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modification as defined in Sec. 233.16 (404)) shall be treated as a permit application and shall be processed in accordance with all requirements of Sec. 124.3.		
(g)(1) (Reserved for PSD Modification Provisions).		
(2) PSD permits may be terminated only by rescission under Sec. 52.21(w) or by automatic expiration under Sec. 52.21(r). Applications for rescission shall be precessed under Sec. 52.21(w) and are not subject to this part.		
<b>Sec. 124.6 Draft permits.</b>	<b>Section 8.0 Draft permits.</b>	<b>§124.5 Draft permits.</b>
(a) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit (except in the case of State section 404 permits for which no draft permit is required under Sec. 233.39) or to deny the application.	8.1 Once an application is complete, the Department shall tentatively decide whether to prepare a draft permit or to deny the application.	(a) Once an application is complete, the Secretary shall tentatively decide whether to prepare a draft permit or to deny the application.
(b) If the Director tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See Sec. 124.6(e). If the Director's final decision (Sec. 124.15) is that the tentative decision to deny the	8.2 If the Department tentatively decides to deny the permit application, the Department shall issue a notice of intent to deny. A notice of intent to deny the permit application shall follow the same procedures as any draft permit prepared under this Section. If the Department's final decision is that the tentative decision to deny the permit	(b) If the Secretary tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See §124.5(d). If the Secretary's final decision (§124.12) is that the



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permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (d) of this section.	application was incorrect, the Department shall withdraw the notice of intent to deny and proceed to prepare a draft permit under subsection 8.3.	tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (c) of this section.
(c) (Applicable to State programs, see Secs. 123.25 (NPDES) and 233.26 (404).) If the Director tentatively decides to issue an NPDES or 404 general permit, he or she shall prepare a draft general permit under paragraph (d) of this section.		
(d) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) If the Director decides to prepare a draft permit, he or she shall prepare a draft permit that contains the following information:	8.3 If the Department decides to prepare a draft permit, the Department shall prepare a draft permit that contains the following applicable information:	(c) If the Secretary decides to prepare a draft permit, he or she shall prepare a draft permit that contains the following information:
(1) All conditions under Secs. 122.41 and 122.43 (NPDES), 144.51 and 144.42 (UIC, 233.7 and 233.8 (404, or 270.30 and 270.32 (RCRA) (except for PSD permits)));	8.3.1 All conditions under Sections 43.0 and 44.0;	(1) All conditions under §§122.7 and 122.8;
(2) All compliance schedules under Secs. 122.47 (NPDES), 144.53 (UIC), 233.10 (404), or 270.33 (RCRA) (except for PSD permits);	8.3.2. All compliance schedules under Section 45.0; and	(2) All compliance schedules under §122.10;
(3) All monitoring requirements under Secs. 122.48 (NPDES), 144.54 (UIC), 233.11 (404), or 270.31 (RCRA) (except for PSD permits); and	8.3.3 All monitoring requirements under Section 46.0.	(3) All monitoring requirements under §122.11;
(4) For:		

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(i) RCRA permits, standards for treatment, storage, and/or disposal and other permit conditions under Sec. 270.30;		
(ii) UIC permits, permit conditions under Sec. 144.52; [moved to (4)]		(4) Permit conditions under §122.32.
(iii) PSD permits, permit conditions under 40 CFR Sec. 52.21;		
(iv) 404 permits, permit conditions under Secs. 233.7 and 233.8;		
(v) NPDES permits, effluent limitations, standards, prohibitions, standards for sewage sludge use or disposal, and conditions under Secs. 122.41, 122.42, and 122.44, including when applicable any conditions certified by a State agency under Sec. 124.55, and all variances that are to be included under Sec. 124.63.		
(e) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) All draft permits prepared by EPA under this section shall be accompanied by a statement of basis (Sec. 124.7) or fact sheet (Sec. 124.8), and shall be based on the administrative record (Sec. 124.9), publicly noticed (Sec. 124.10) and made available for public comment (Sec. 124.11). The Regional Administrator shall give notice of opportunity for a public hearing (Sec. 124.12), issue a final decision (Sec. 124.15) and respond to comments (Sec. 124.17). For RCRA, UIC or PSD permits,	8.4 Draft permits shall be accompanied by a fact sheet if required under Section 9.0.	(d) Draft permits prepared by a State shall be accompanied by a fact sheet if required under §124.6.

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
an appeal may be taken under Sec. 124.19 and, for NPDES permits, an appeal may be taken under Sec. 124.74. Draft permits prepared by a State shall be accompanied by a fact sheet if required under Sec. 124.8.		
<b>Sec. 124.7 Statement of basis.</b>		
EPA shall prepare a statement of basis for every draft permit for which a fact sheet under Sec. 124.8 is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.		
<b>Sec. 124.8 Fact sheet.</b>  (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)	<b>Section 9.0 Fact sheet.</b>	<b>§124.6 Fact sheet.</b>
(a) A fact sheet shall be prepared for every draft permit for a major HWM, UIC, 404, or NPDES facility or activity, for every Class I sludge management facility, for every 404 and NPDES general permit (Secs. 237.37 and 122.28), for every NPDES draft permit that incorporates a variance or requires an explanation under Sec. 124.56(b), for every draft permit that includes a sewage sludge land application	<b>9.1 A fact sheet shall be prepared for every draft permit. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The Department shall send this fact sheet to the applicant and, on request, to any other person.</b>	(a) A fact sheet shall be prepared for every draft permit for a major UIC facility or activity, and for every draft permit which the Director finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit.

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
plan under 40 CFR 501.15(a)(2)(ix), and for every draft permit which the Director finds is the subject of wide-spread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Director shall send this fact sheet to the applicant and, on request, to any other person.		The Secretary shall send this fact sheet to the applicant and, on request, to any other person.
(b) The fact sheet shall include, when applicable:	9.2 The fact sheet shall include, when applicable:	(b) The fact sheet shall include, when applicable:
(1) A brief description of the type of facility or activity which is the subject of the draft permit;	9.2.1 A brief description of the type of facility or activity which is the subject of the draft permit;	(1) A brief description of the type of facility or activity which is the subject of the draft permit;
(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.	9.2.2 The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;	(2) The type and quantity of fluids which are proposed to be or are being injected.
(3) For a PSD permit, the degree of increment consumption expected to result from operation of the facility or activity.		
(4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record	9.2.3 A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the	

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
required by Sec. 124.9 (for EPA-issued permits);	administrative record;	
(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;	9.2.4 A statement of reasons why any requested variances or alternatives to required standards are or are not justified;	(3) Reasons why any requested variances or alternatives to required standards do or do not appear justified;
(6) A description of the procedures for reaching a final decision on the draft permit including:	9.2.5 A description of the procedures for reaching a final decision on the draft permit including:	(4) A description of the procedures for reaching a final decision on the draft permit including:
(i) The beginning and ending dates of the comment period under Sec. 124.10 and the address where comments will be received;	9.2.4.1 The beginning and ending dates of the comment period under Section 10.0 and the address where comments will be received;	(i) The beginning and ending dates of the comment period under §124.7 and the address where comments will be received;
(ii) Procedures for requesting a hearing and the nature of that hearing; and	9.2.4.2 Procedures for requesting a hearing and the nature of that hearing; and	(ii) Procedures for requesting a hearing and the nature of that hearing; and
(iii) Any other procedures by which the public may participate in the final decision.	9.2.4.3 Any other procedures by which the public may participate in the final decision.	(iii) Any other procedures by which the public may participate in the final decision
(7) Name and telephone number of a person to contact for additional information.	9.2.6 Name and telephone number of a person to contact for additional information.	(5) Name and telephone number of a person to contact for additional information.
(8) For NPDES permits, provisions satisfying the requirements of Sec. 124.56.		
(9) Justification for waiver of any application requirements under Sec. 122.21(j) or (q) of this chapter.		

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<b>Sec. 124.9 Administrative record for draft permits when EPA is the permitting authority.</b>		
<p>(a) The provisions of a draft permit prepared by EPA under Sec. 124.6 shall be based on the administrative record defined in this section.</p> <p>(b) For preparing a draft permit under Sec. 124.6, the record shall consist of:</p> <p>(1) The application, if required, and any supporting data furnished by the applicant;</p> <p>(2) The draft permit or notice of intent to deny the application or to terminate the permit;</p> <p>(3) The statement of basis (Sec. 124.7) or fact sheet (Sec. 124.8);</p> <p>(4) All documents cited in the statement of basis or fact sheet; and</p> <p>(5) Other documents contained in the supporting file for the draft permit.</p> <p>(6) For NPDES new source draft permits only, any environmental assessment, environmental impact statement (EIS), finding of no significant impact, or environmental information document and</p>		

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<p>any supplement to an EIS that may have been prepared. NPDES permits other than permits to new sources as well as all RCRA, UIC and PSD permits are not subject to the environmental impact statement provisions of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4321.</p> <p>(c) Material readily available at the issuing Regional Office or published material that is generally available, and that is included in the administrative record under paragraphs (b) and (c) of this section, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.</p> <p>(d) This section applies to all draft permits when public notice was given after the effective date of these regulations.</p>		
<b>Sec. 124.10 Public notice of permit actions and public comment period.</b>	<b>Section 10.0 Public notice of permit actions and public comment period.</b>	<b>§124.7 Public notice of permit actions and public comment period.</b>
	10.1 Scope	
(a) Scope. (1) The Director shall give public notice that the following actions have occurred:	10.1.1 The Department shall provide public notice that any of the following actions have occurred:	(a) <u>Scope</u> . (1) The Secretary shall give public notice that the following actions have occurred:
(i) A permit application has been tentatively denied under Sec. 124.6(b);	10.1.1.1 A permit application has been tentatively denied under subsection 8.2;	(i) A permit application has been tentatively denied under §124.5(b);



Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(ii) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). A draft permit has been prepared under Sec. 124.6(d);	10.1.1.2 A draft permit has been prepared under subsection 8.3;	(ii) A draft permit has been prepared under §124.5(c);
(iii) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404) and 271.14 (RCRA)). A hearing has been scheduled under Sec. 124.12;	10.1.1.3 A hearing has been scheduled under <b>7 Del.C. §§ 6004 and 6006.</b>	(iii) A hearing has been scheduled under §124.9;
(iv) An appeal has been granted under Sec. 124.19(c);	10.1.1.4 An appeal to the EAB has been filed pursuant to <b>7 Del.C. §6008.</b>	(iv) An appeal has been granted under §124.15(c);
(v) (Applicable to State programs, see Sec. 233.26 (404)). A State section 404 application has been received in cases when no draft permit will be prepared (see Sec. 233.39); or		
(vi) An NPDES new source determination has been made under Sec. 122.29.		
2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under Sec. 124.5(b). Written notice of that denial shall be given to the requester and to the permittee.	10.1.2 No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under subsection 7.2. Written notice of that denial shall be given to the requester and to the permittee.	(2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under §124.4(b). Written notice of that denial shall be given to the requester and to the permittee.
(3) Public notices may describe more than one permit or permit actions.	10.1.3 Public notices may describe more than one permit or permit actions if the applicant or permittee is the same person.	(3) Public notices may describe more than one permit or permit action.

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	10.2 Timing.	
(b) Timing (applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404, and 271.14 (RCRA)). (1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 30 days for public comment. For RCRA permits only, public notice shall allow at least 45 days for public comment. For EPA-issued permits, if the Regional Administrator determines under 40 CFR part 6, subpart F that an Environmental Impact Statement (EIS) shall be prepared for an NPDES new source, public notice of the draft permit shall not be given until after a draft EIS is issued.	10.2.1 Public notice of the preparation of a draft permit or a notice of intent to deny a permit application required under subsection 10.1 shall allow at least 30 days for public comment.	(b) Timing. (1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 30 days for public comment.
(2) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)	10.2.2 Public notice of a public hearing shall be provided at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.	(2) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)
	10.2.3 Public notice is not required for activities approved by a Rule Authorization letter.	
(c) Methods (applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC),	10.3 Methods. Public notice of activities described in subsection 10.1.1	(c) <u>Methods</u> . Public notice of activities described in paragraph (a)(1) of this

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
233.26 (404), and 271.14 (RCRA)). Public notice of activities described in paragraph (a)(1) of this section shall be given by the following methods:	shall be given by the following methods:	section shall be given by the following methods:
(1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits);	10.3.1 By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this Section may waive his or her rights to receive notice for any classes and categories of permits);	(1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):
(i) The applicant (except for NPDES and 404 general permits when there is no applicant);	10.3.1.1 The applicant;	(i) The applicant;
(ii) Any other agency which the Director knows has issued or is required to issue a RCRA, UIC, PSD (or other permit under the Clean Air Act), NPDES, 404, sludge management permit, or ocean dumping permit under the Marine Research Protection and Sanctuaries Act for the same facility or activity (including EPA when the draft permit is prepared by the State);	10.3.1.2 Any other agency which the Department knows has issued or is required to issue a permit for the same facility or activity;	(ii) Any other agency which the Director knows has issued or is required to issue a permit for the same facility or activity;
(iii) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, including any affected States (Indian Tribes). (For purposes of this paragraph, and in the context of the Underground Injection	10.3.1.3 Federal and State agencies with jurisdiction over fish, shellfish, wildlife resources, coastal zone management plans, the Advisory Council on Historic Preservation, the State Historic Preservation Officer, including any affected States.	(iii) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any affected States;

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Control Program only, the term State includes Indian Tribes treated as States.)		
(iv) For NPDES and 404 permits only, any State agency responsible for plan development under CWA section 208(b)(2), 208(b)(4) or 303(e) and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;		
(v) For NPDES permits only, any user identified in the permit application of a privately owned treatment works;		
(vi) For 404 permits only, any reasonably ascertainable owner of property adjacent to the regulated facility or activity and the Regional Director of the Federal Aviation Administration if the discharge involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations;		
(vii) For PSD permits only, affected State and local air pollution control agencies, the chief executives of the city and county where the major stationary source or major modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the regulated activity;		
(viii) For Class I injection well UIC permits only, state and local oil and gas		

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
regulatory agencies and state agencies regulating mineral exploration and recovery;		
(ix) Persons on a mailing list developed by:	10.3.1.4 Persons on a mailing list developed by:	(iv) Persons on a mailing list developed by:
(A) Including those who request in writing to be on the list;	10.3.1.4.1 Including those who request in writing to be on the list;	(A) Including those who request in writing to be on the list;
(B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and	10.3.1.4.2 Soliciting persons for "area lists" from participants in past permit proceedings in that area; and	(B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request.)	10.3.1.4.3 Informing the public of the opportunity to be put on a notification list, via the Delaware Environmental Navigator website.	(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals. (The Secretary may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Secretary may delete from the list the name of any person who fails to respond to such a request.)
(x)(A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and (B) to each State agency having any authority under State law with respect to the construction or operation of such facility.	10.3.1.5 To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and	

Current FED regs Part 124	Proposed State regs (based on the FED regs)	Current STATE regs
	10.3.1.6 To each State agency having any authority under State law with respect to the construction or operation of such facility.	
<p>(2)(i) For major permits, NPDES and 404 general permits, and permits that include sewage sludge land application plans under 40 CFR 501.15(a)(2)(ix), publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity; and for EPA-issued NPDES general permits, in the Federal Register;</p> <p>Note: The Director is encouraged to provide as much notice as possible of the NPDES or Section 404 draft general permit to the facilities or activities to be covered by the general permit.</p>	10.3.2 For permits, publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity	
(ii) For all RCRA permits, publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.		
(3) When the program is being administered by an approved State, in a manner constituting legal notice to the public under State law; and	10.3.3 In a manner constituting legal notice to the public under this Section and 7 Del.C. §6004.	(2) When the program is being administered by an approved State, in a manner constituting legal notice to the public under State law; and
(4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public	10.3.4 Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other	(3) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to



Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
participation.	forum or medium to elicit public participation.	elicit public participation.
	10.4 Contents	
(d) Contents (applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA))--(1) All public notices. All public notices issued under this part shall contain the following minimum information:	10.4.1 All public notices. All public notices issued under this part shall contain the following minimum information:	(d) <u>Contents</u> . (1) All public notices. All public notices issued under this Part shall contain the following minimum information:
(i) Name and address of the office processing the permit action for which notice is being given;	10.4.1.1 Name and address of the office processing the permit action for which notice is being given;	(i) Name and address of the office processing the permit action for which notice is being given;
(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of NPDES and 404 draft general permits under Secs. 122.28 and 233.37;	10.4.1.2 The name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;	(ii) Name and address of the permittee or permit applicant.
(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit, for NPDES or 404 general permits when there is no application.	10.4.1.3 A brief description of the business conducted at the facility or activity described in the permit application;	(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit,
(iv) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application; and	10.4.1.4 The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, a copy of the fact sheet, and a copy of the application; and	(iv) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application; and



Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(v) A brief description of the comment procedures required by Secs. 124.11 and 124.12 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.	10.4.1.5 A brief description of the comment procedures required by Section 11.0 of these Regulations and by 7 <b>Del.C.</b> §6006 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.	(v) A brief description of the comment procedures required by §§124.8 and 124.9 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.
(vi) For EPA-issued permits, the location of the administrative record required by Sec. 124.9, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record.		
(vii) For NPDES permits only (including those for ``sludge-only facilities"), a general description of the location of each existing or proposed discharge point and the name of the receiving water and the sludge use and disposal practice(s) and the location of each sludge treatment works treating domestic sewage and use or disposal sites known at the time of permit application. For EPA-issued NPDES permits only, if the discharge is from a new source, a statement as to whether an environmental impact statement will be or		

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has been prepared.		
<p>(viii) For 404 permits only,</p> <p>(A) The purpose of the proposed activity (including, in the case of fill material, activities intended to be conducted on the fill), a description of the type, composition, and quantity of materials to be discharged and means of conveyance; and any proposed conditions and limitations on the discharge;</p> <p>(B) The name and water quality standards classification, if applicable, of the receiving waters into which the discharge is proposed, and a general description of the site of each proposed discharge and the portions of the site and the discharges which are within State regulated waters;</p> <p>(C) A description of the anticipated environmental effects of activities conducted under the permit;</p> <p>(D) References to applicable statutory or regulatory authority; and</p> <p>(E) Any other available information which may assist the public in evaluating the likely impact of the proposed activity upon the integrity of the receiving water.</p>		

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(ix) Requirements applicable to cooling water intake structures at new facilities under section 316(b) of the CWA, in accordance with part 125, subpart I, of this chapter.		
(x) Any additional information considered necessary or proper.	10.4.1.6 Any additional information considered necessary.	(vi) Any additional information considered necessary or proper.
(2) Public notices for hearings. In addition to the general public notice described in paragraph (d)(1) of this section, the public notice of a hearing under Sec. 124.12 shall contain the following information:	10.4.2 Public notices for hearings. In addition to the general public notice described in subsection 10.4.1, the public notice of a hearing under 7 Del.C. §6006 shall contain the following information:	(2) Public notices for hearings. In addition to the general public notice described in paragraph (d)(1) of this section, the public notice of a hearing under §124.12, shall contain the following information:
(i) Reference to the date of previous public notices relating to the permit;	10.4.2.1 Reference to the date(s) of previous public notices relating to the permit;	(i) Reference to the date of previous public notices relating to the permit;
(ii) Date, time, and place of the hearing;	10.4.2.2 Date, time, and place of the hearing; and	(ii) Date, time, and place of the hearing;
(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and	10.4.2.3 A brief description of the nature and purpose of the hearing, including identification of the applicable rules and procedures (copies of which shall be provided upon request).	(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and
(iv) For 404 permits only, a summary of major issues raised to date during the public comment period.		
(e) (Applicable to State programs, see Secs.	10.5 In addition to the general public	(e) In addition to the general public

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123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). In addition to the general public notice described in paragraph (d)(1) of this section, all persons identified in paragraphs (c)(1) (i), (ii), (iii), and (iv) of this section shall be mailed a copy of the fact sheet or statement of basis (for EPA-issued permits), the permit application (if any) and the draft permit (if any).	notice described in subsection 10.4.1, persons identified in subsection 10.3 may be mailed a copy of the fact sheet, the permit application, and the draft permit.	notice described in paragraph (d)(1) of this section, all persons identified in paragraphs (c)(1)(i), (ii), and (iii) of this section shall be mailed a copy of the permit application (if any) and the draft permit (if any).
	10.6 The applicant shall be responsible for all costs associated with advertising the Public Notice and the Public Hearing Notice.	
<b>Sec. 124.11 Public comments and requests for public hearings.</b>	<b>Section 11.0 Public comments and requests for public hearings.</b>	<b>§124.8 Public comments and requests for public hearings</b>
(Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). During the public comment period provided under Sec. 124.10, any interested person may submit written comments on the draft permit or the permit application for 404 permits when no draft permit is required (see Sec. 233.39) and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be	During the public comment period provided under Section 10.0, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in Section 17.0 of these Regulations.	During the public comment period provided under §124.7, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in §124.14.

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answered as provided in Sec. 124.17.		
<b>Sec. 124.12 Public hearings.</b>	<b>Section 12.0 Public hearings.</b>	<b>§124.9 Public hearings.</b>
(a) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) (1) The Director shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s);	Public hearings shall be governed by the provisions of 7 <b>Del.C.</b> §6006 and by the Delaware Administrative Procedures Act, 29 <b>Del. C.</b> , Chapter 101 and by any amending or superseding legislation. A public hearing shall be held on any application if the Secretary deems significant public interest exists to do so.	(a) The Secretary shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s). Public notice of the hearing shall be given as specified in §124.7.
(2) The Director may also hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;		The Secretary also may hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.
(3) For RCRA permits only, (i) the Director shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under Sec. 124.10(b)(1); (ii) whenever possible the Director shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility;		
(4) Public notice of the hearing shall be given as specified in Sec. 124.10.		Public notice of the hearing shall be given as specified in §124.7.
(b) Whenever a public hearing will be held and EPA is the permitting authority, the Regional Administrator shall designate a		

Current FED regs Part 124	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.		
(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Sec. 124.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.		(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under §124.7 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.
(d) A tape recording or written transcript of the hearing shall be made available to the public.		(c) A tape recording or written transcript of the hearing shall be made available to the public.
<b>Sec. 124.13 Obligation to raise issues and provide information during the public comment period.</b>	<b>Section 13.0 Obligation to raise issues and provide information during the public comment period.</b>	<b>§124.10 Obligation to raise issues and provide information during the public comment period</b>
All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under Sec. 124.10. Any	All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must by the close of the public comment period (including any public hearing) under Section 10.0, raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position. Any supporting materials which are submitted shall be	All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Secretary's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonable ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the



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<p>supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available to EPA as directed by the Regional Administrator. (A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this section. Additional time shall be granted under Sec. 124.10 to the extent that a commenter who requests additional time demonstrates the need for such time.)</p>	<p>included in full and may not be incorporated by reference. There is no need to provide copies of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Such items may be referred to by citation in the submission but copies shall be provided to the DNREC upon request. Commenters shall make supporting materials not already included in the administrative record available to the DNREC as reasonably requested by the Department. A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this Section. Additional time shall be granted under Section 10.0 upon a showing of good cause by a commenter who requests additional time.</p>	<p>public comment period (including any public hearing) under §124.7. All supporting materials shall be included in full and may not be incorporated by reference, unless they consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.</p>
<p><b>Sec. 124.14 Reopening of the public comment period.</b></p>	<p><b>Section 14.0 Reopening of the public comment period.</b></p>	<p><b>§124.11 Reopening of the public comment period</b></p>
<p>(a)(1) The Regional Administrator may order the public comment period reopened if the procedures of this paragraph could expedite the decision making process. When the public comment period is reopened under this paragraph, all persons,</p>	<p>14.1 The Department may order the reopening of the public comment period if he or she determines that doing so pursuant to this Section could expedite the decision making process. The public comment period may be reopened at the</p>	



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including applicants, who believe any condition of a draft permit is inappropriate or that the Regional Administrator's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than sixty days after public notice under paragraph (a)(2) of this section, set by the Regional Administrator. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than twenty days after the date set for filing of the material, set by the Regional Administrator.	request of any person, including applicants, who (1) believe that any condition of a draft permit is inappropriate or (2) question the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate. All persons, including applicants, who request the reopening of the public comment period must submit all reasonably available facts supporting their challenge no less than 30 days from the date of public notice. Thereafter, any person may file a written response to the submission of any other person, by a date set by the Department which shall be at least 20 days after the date of the submission to which response is made.	
(2) Public notice of any comment period under this paragraph shall identify the issues to which the requirements of Sec. 124.14(a) shall apply.		
(3) On his own motion or on the request of any person, the Regional Administrator may direct that the requirements of paragraph (a)(1) of this section shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of paragraph (a)(1) of this section will substantially expedite the	14.1.1 The Department may direct that the requirements of subsection 14.1 shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of subsection 14.1 will substantially expedite the decision making process. The notice of	

Current FED regs Part 124	Proposed State regs (based on the FED regs)	Current STATE regs
decision making process. The notice of the draft permit shall state whenever this has been done.	the draft permit shall state whenever this has been done.	
(4) A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted under Sec. 124.10 to the extent they appear necessary.	14.1.2 A longer comment period will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this Section. Commenters may request longer comment periods and extensions shall be granted under Section 10.0 to the extent they appear necessary.	
(b) If any data information or arguments submitted during the public comment period, including information or arguments required under Sec. 124.13, appear to raise substantial new questions concerning a permit, the Regional Administrator may take one or more of the following actions:	14.2 If any data, information, or arguments submitted during the public comment period, including information or arguments required under Section 13.0, appear to raise substantial new questions concerning a permit, the Department may take one or more of the following actions:	(a) If any data information or arguments submitted during the public comment period, including information or arguments required under §124.10, appear to raise substantial new questions concerning a permit, the Secretary may take one or more of the following actions:
(1) Prepare a new draft permit, appropriately modified, under Sec. 124.6;	14.2.1 Prepare a new draft permit, appropriately modified, under Section 8.0;	(1) Prepare a new draft permit, appropriately modified, under §124.5;
(2) Prepare a revised statement of basis under Sec. 124.7, a fact sheet or revised fact sheet under Sec. 124.8 and reopen the comment period under Sec. 124.14; or	14.2.2 Prepare a revised fact sheet under Section 9.0 and reopen the comment period under this Section; or	(2) Prepare a fact sheet or revised fact sheet under §124.6 and reopen the comment period under §124.11; or
(3) Reopen or extend the comment period under Sec. 124.10 to give interested persons an opportunity to comment on the	14.2.3 Reopen or extend the comment period under Section 10.0 to give interested persons an opportunity to	(3) Reopen or extend the comment period under §124.7 to given interested persons an opportunity to comment on

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information or arguments submitted.	comment on the information or arguments submitted.	the information or arguments submitted.
(c) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under Sec. 124.10 shall define the scope of the reopening.	14.3 Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening pursuant to this Section. The public notice under Section 10.0 shall define the scope of the reopening.	(b) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under §124.7 shall define the scope of the reopening.
(d) [Reserved]		
(e) Public notice of any of the above actions shall be issued under Sec. 124.10.	14.4 Public notice of any of the above actions shall be issued under Section 10.0.	(c) Public notice of any of the above actions shall be issued under §124.7.
<b>Sec. 124.15 Issuance and effective date of permit.</b>	<b>Section 15.0 Issuance and effective date of permit.</b>	<b>§124.12 Issuance and effective date of permit</b>
(a) After the close of the public comment period under Sec. 124.10 on a draft permit, the Regional Administrator shall issue a final permit decision (or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under Sec. 270.29). The Regional Administrator shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a RCRA, UIC, PSD, or NPDES permit under Sec. 124.19 of this part. For the purposes of this section, a	15.1 After the close of the public comment period under Section 10.0 on a draft permit, the Department shall issue a final permit decision. The Department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a UIC permit as provided in 7 Del.C. §§6008 and 6009 and by any amending or superseding legislation. For the purposes of this Section, a final permit decision means a final decision to issue, deny, modify,	(a) After the close of the public comment period under §124.7 on a draft permit, the Secretary shall issue a final permit decision. The Secretary shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a permit. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

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final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.	revoke and reissue, or terminate a permit.	
(b) A final permit decision (or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under Sec. 270.29) shall become effective 30 days after the service of notice of the decision unless:	15.2 A final permit decision shall become effective 30 days after the service of notice of the decision unless:	(b) A final permit decision shall become effective 30 days after the service of notice of the decision under paragraph (a) of this section, unless:
(1) A later effective date is specified in the decision; or	15.2.1 A later effective date is specified in the decision; or	(1) A later effective date is specified in the decision; or
(2) Review is requested on the permit under Sec. 124.19.	15.2.2 A review is requested, in accordance with DNREC Environmental Appeals Board (EAB) requirements;	(2) Review is requested under §124.15; or
(3) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.	15.2.3 No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.	(3) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.
<b>Sec. 124.16 Stays of contested permit conditions.</b>	<b>Section 16.0 Application to Stay Contested Permit Action.</b>	<b>§124.13 Stays of contested permits conditions</b>
	No appeal shall automatically stay any action of the Department; but upon application, and for good cause, the Department or the Court of Chancery may stay the action pending disposition of the appeal.	
(a) Stays. (1) If a request for review of a RCRA, UIC, or NPDES permit under Sec. 124.19 of this part is filed, the effect of the contested permit conditions shall be stayed		(a) Stays. (1) If a request for review of a UIC permit under §124.15 is granted, the effect of the contested permit conditions shall be stayed and shall not be subject to

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and shall not be subject to judicial review pending final agency action. Uncontested permit conditions shall be stayed only until the date specified in paragraph (a)(2)(i) of this section. (No stay of a PSD permit is available under this section.) If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant shall be without a permit for the proposed new facility, injection well, source or discharger pending final agency action. See also Sec. 124.60. [section does not exist]		judicial review pending final agency action. If the permit involves a new injection well the applicant shall be without a permit for the proposed new injection well pending final agency action.
(2)(i) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. The Regional Administrator shall identify the stayed provisions of permits for existing facilities, injection wells, and sources. All other provisions of the permit for the existing facility, injection well, or source become fully effective and enforceable 30 days after the date of the notification required in paragraph (a)(2)(ii) of this section.		(2) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. Stayed provisions of permits for existing injection wells shall be identified by the Secretary. All other provisions of the permit for the existing injection well shall remain fully effective and enforceable.
(ii) The Regional Administrator shall, as soon as possible after receiving notification from the EAB of the filing of a petition for review, notify the EAB, the applicant, and all other interested parties of the uncontested (and severable) conditions of the final permit that will become fully		

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effective enforceable obligations of the permit as of the date specified in paragraph (a)(2)(i) of this section . For NPDES permits only, the notice shall comply with the requirements of Sec. 124.60(b).		
(b) Stays based on cross effects. (1) A stay may be granted based on the grounds that an appeal to the Administrator under Sec. 124.19 of one permit may result in changes to another EPA-issued permit only when each of the permits involved has been appealed to the Administrator and he or she has accepted each appeal.		(b) Stays based on cross effects. (1) A stay may be granted based on the grounds that an appeal to the Secretary under §124.15 of one permit may result in changes to another permit only when each of the permits involved has been appealed to the Secretary and he or she has accepted each appeal.
(2) No stay of an EPA-issued RCRA, UIC, or NPDES permit shall be granted based on the staying of any State-issued permit except at the discretion of the Regional Administrator and only upon written request from the State Director.		
(c) Any facility or activity holding an existing permit must:		(c) Any facility or activity holding an existing permit must:
(1) Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under Sec. 124.5; and		(1) Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under §124.4; and
(2) To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with		(2) To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with



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compliance with other conditions of the new permit which have not been stayed.		compliance with other conditions of the new permit which have not been stayed.
<b>Sec. 124.17 Response to comments.</b>	<b>Section 17.0 Response to comments.</b>	<b>§124.14 Response to comments</b>
(a) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) At the time that any final permit decision is issued under Sec. 124.15, the Director shall issue a response to comments. States are only required to issue a response to comments when a final permit is issued. This response shall:	17.1 The Department shall issue a response to comments when a final permit is issued. This response shall:	(a) At the time that any final permit decision is issued under §124.12, the Secretary shall issue a response to comments. States are only required to issue a response to comments when a final permit is issued. This response shall:
(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and	17.1.1 Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and	(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
(2) Briefly describe and respond to all significant comments on the draft permit or the permit application (for section 404 permits only) raised during the public comment period, or during any hearing.	17.1.2 Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.	(2) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing
(b) For EPA-issued permits, any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in Sec. 124.18. If new points are raised or new material supplied during the public comment period, EPA may document its response to those matters by adding new materials to the administrative record.	17.2 Any documents cited in the response to comments shall be included in the administrative record for the final permit decision. If new points are raised or new material supplied during the public comment period, the Department may document a response to those matters by adding new materials to the administrative record.	



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(c) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) The response to comments shall be available to the public.	17.3 The response to comments shall be available to the public.	(b) The response to comments shall be available to the public.
<b>Sec. 124.18 Administrative record for final permit when EPA is the permitting authority.</b>  [text not shown here]		
<b>Sec. 124.19 Appeal of RCRA, UIC, NPDES, and PSD Permits.</b>	<b>Section 18.0 Appeal of UIC Permits.</b>	<b>§124.15 Appeal of UIC permits</b>
(a) Within 30 days after a RCRA, UIC, NPDES, or PSD final permit decision (or a decision under 270.29 of this chapter to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under Sec. 124.15 of this part, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Persons affected by an NPDES general permit may not file a petition under this section or otherwise challenge the conditions of the general permit in further Agency proceedings. They may, instead, either challenge the general permit in court, or apply for an individual NPDES permit under Sec. 122.21 as authorized in Sec. 122.28 and then petition the Board for	Any appeal of a UIC permit shall be governed by 7 Del.C. §6008 and by any amending or superseding legislation.	(a) Within 30 days after a UIC, final permit decision has been issued under §124.12, any person who filed comments on that draft permit or participated in the public hearing may petition the Secretary to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this section begins with the service of notice of the Secretary's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being

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<p>review as provided by this section. As provided in Sec. 122.28(b)(3), any interested person may also petition the Director to require an individual NPDES permit for any discharger eligible for authorization to discharge under an NPDES general permit. [[unclear whether or not the following section is for NPDES only or not]] Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this section begins with the service of notice of the Regional Administrator's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:</p>		<p>raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:</p>
<p>(1) A finding of fact or conclusion of law which is clearly erroneous, or</p>		<p>(1) A finding of fact or conclusion of law which is clearly erroneous, or</p>
<p>(2) An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in</p>		<p>(2) An exercise of discretion or an important policy consideration which the Secretary should, in his or her discretion,</p>

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its discretion, review		review
(b) The Environmental Appeals Board may also decide on its own initiative to review any condition of any RCRA, UIC, NPDES, or PSD permit decision issued under this part for which review is available under paragraph (a) of this section. The Environmental Appeals Board must act under this paragraph within 30 days of the service date of notice of the Regional Administrator's action.		(b) The Secretary may also decide on his or her initiative to review any condition of any UIC permit issued under this Part. The Secretary must act under this paragraph within 30 days of the service date of notice of the Secretary's action.
(c) Within a reasonable time following the filing of the petition for review, the Environmental Appeals Board shall issue an order granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. Public notice of any grant of review by the Environmental Appeals Board under paragraph (a) or (b) of this section shall be given as provided in Sec. 124.10. Public notice shall set forth a briefing schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial of review shall be sent only to the person(s) requesting review.		(c) Within a reasonable time following the filing of the petition for review, the Secretary shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. Public notice of any grant of review by the Secretary under paragraph (a) or (b) of this section shall be given as provided in §124.7. Public notice shall set forth a briefing schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial or review shall be sent only to the person(s) requesting review.
(d) The Regional Administrator, at any time prior to the rendering of a decision under paragraph (c) of this section to grant or deny review of a permit decision, may, upon notification to the Board and any		

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interested parties, withdraw the permit and prepare a new draft permit under Sec. 124.6 addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit which are not withdrawn and which are not stayed under Sec. 124.16(a) continue to apply.		
(e) A petition to the Environmental Appeals Board under paragraph (a) of this section is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action.  [[is this for EPA-issued permits only??]]		(d) A petition to the Secretary under paragraph (a) of this section is a prerequisite to the seeking of judicial review of the final agency action.
(f)(1) For purposes of judicial review under the appropriate Act, final agency action occurs when a final RCRA, UIC, NPDES, or PSD permit decision is issued by EPA and agency review procedures under this section are exhausted. A final permit decision shall be issued by the Regional Administrator:		(e)(1) For purposes of judicial review under the appropriate Act, final agency action occurs when a final UIC permit is issued or denied by the State and agency review procedures are exhausted. A final permit decision shall be issued by the Secretary:
(i) When the Environmental Appeals Board issues notice to the parties that review has been denied;		(i) When the Secretary issues notice to the parties that review has been denied;
(ii) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a		(ii) When the Secretary issues a decision on the merits of the appeal and the decision does not include a remand of

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remand of the proceedings; or		the proceedings; or
(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.		(iii) upon the completion of remand proceedings if the proceedings are remanded, unless the Secretary's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.
(2) Notice of any final agency action regarding a PSD permit shall promptly be published in the Federal Register.		
(g) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to Sec. 124.2 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.		
<b>Sec. 124.20 Computation of time.</b>	<b>Section 19.0 Computation of time.</b>	<b>§124.16 Computation of time.</b>

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(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.		(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.
(b) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.		(b) Any time period schedule to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.
(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.	In computing any period of time prescribed or allowed by these Regulations, by order of court, or by statute, the day of the act, event, or default after which the designated period of time begins to run shall not be included. As used in this rule, "legal holidays" shall be those days provided by statute or appointed by the Governor or the Chief Justice of the State of Delaware.	(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.
(d) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time.		(d) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time.
<b>Sec. 124.21 Effective date of part 124.</b>		
[text not shown here]		
Subpart B--Specific Procedures Applicable to RCRA Permits		
Subpart C--Specific Procedures Applicable to PSD Permits		
Subpart D--Specific Procedures Applicable		

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to NPDES Permits		
<b>END Part 124, Subpart A</b>		



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Part 144 - Subpart A—General Provisions	<b>Part 144 - General Provisions – Sections 20.0-54.0</b>	
<b>§ 144.1 Purpose and scope of Part 144.</b>	<b>Section 20.0 Purpose and scope</b>	
(a) Contents of part 144. The regulations in this part set forth requirements for the Underground Injection Control (UIC) program promulgated under Part C of the Safe Drinking Water Act (SDWA) ( <del>Pub. L. 93-523, as amended; 42 U.S.C. 300f et seq.) and, to the extent that they deal with hazardous waste, the Resource Conservation and Recovery Act (RCRA) (Pub. L. 94-580 as amended; 42 U.S.C. 6901 et seq.).</del>	20.1 Content of Part 144. Part 144 (Sections 20.0-54.0) set forth requirements for the Underground Injection Control (UIC) program promulgated under Part C of the Safe Drinking Water Act (SDWA).	
(b) Applicability. (1) The regulations in this part establish minimum requirements for UIC programs. To the extent set forth in part 145, each State must meet these requirements in order to obtain primary enforcement authority for the UIC program in that State.	20.2 Applicability. The Regulations in this Part establish minimum requirements for Delaware's UIC program.	
(2) In addition to serving as minimum requirements for UIC programs, the regulations in this part constitute a part of the UIC program for States listed in part 147 to be administered directly by EPA.		
(c) The information requirements located in the following sections have been cleared by the Office of Management and Budget:		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Sections 144.11, 144.28(c)(d)(i), 144.31, 14.33, 144.51(j)(m) (n), 144.52(a), 144.54, 144.55, 144.15, 144.23, 144.26, 144.27, 144.28(i)(k), 144.51(o), 146.52. The OMB clearance number is 2040-0042.		
(d) Authority. (1) Section 1421 of SDWA requires the Administrator to promulgate regulations establishing minimum requirements for effective UIC programs.		
(2) Section 1422 of SDWA requires the Administrator to list in the Federal Register ``each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources" and to establish by regulation a program for EPA administration of UIC programs in the absence of an approved State program in a listed State.		
(3) Section 1423 of SDWA provides procedures for EPA enforcement of UIC requirements.		
(4) Section 1431 authorizes the Administrator to take action to protect the health of persons when a contaminant which is present in or may enter a public water system or underground source of drinking water may present an imminent and substantial endangerment to the health of persons.		
(5) Section 1445 of SDWA authorizes the		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
promulgation of regulations for such recordkeeping, reporting, and monitoring requirements ``as the Administrator may reasonably require to assist him in establishing regulations under this title," and a ``right of entry and inspection to determine compliance with this title, including for this purpose, inspection, at reasonable time, or records, files, papers, processes, controls, and facilities."		
(6) Section 1450 of SDWA authorizes the Administrator ``to prescribe such regulations as are necessary or appropriate to carry out his functions" under SDWA.		
(e) Overview of the UIC program. An UIC program is necessary in any State listed by EPA under section 1422 of the SDWA. <del>Because all States have been listed, the SDWA requires all States to submit an UIC program within 270 days after July 24, 1980, the effective date of 40 CFR part 146, which was the final element of the UIC minimum requirements to be originally promulgated, unless the Administrator grants an extension, which can be for a period not to exceed an additional 270 days. If a State fails to submit an approvable program, EPA will establish a program for that State. Once a program is established, SDWA provides that all underground injections in listed States are unlawful and subject to penalties</del>	20.3 All underground injections in Delaware are unlawful and subject to penalties unless authorized by rule, authorized by a permit or Rule Authorization letter. This Part sets forth the requirements governing all UIC programs, activities authorized by rule, Rule Authorization letters, or Permit(s) and prohibits certain types of injection. The technical regulations governing these authorizations appear in Part 146 (Sections 55.0-70.0).	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
unless authorized by a permit or a rule. This part sets forth the requirements governing all UIC programs, authorizations by permit or rule and prohibits certain types of injection. The technical regulations governing these authorizations appear in 40 CFR part 146.		
(f) Structure of the UIC program--(1) Part 144. This part sets forth the permitting and other program requirements that must be met by UIC Programs, whether run by a State or by EPA. It is divided into the following subparts:	20.4 Scope of the permit and other program requirements. The UIC Permit Program regulates underground injections by six classes of wells. The six classes of wells are set forth in Section 58.0. All owners or operators of injection wells that are not authorized by rule in this Regulation shall receive written approval from the Department prior to constructing the injection activity. Injection that results in the movement of fluid containing any contaminant into Underground Sources of Drinking Water (USDW), if the presence of that contaminant may cause a violation of any primary drinking water regulation or may adversely affect the health of persons (Section 24.0) is prohibited. For Class V wells, if such prohibited fluid movement occurs, a permit may be required (Section 29.0) or the Department may require remedial action or closure by Order (Section 24.0). An aquifer is a USDW if it fits the	(b) <u>Structure</u> . The sequence of sections within each of the subparts of Part 122 has been rearranged for logic and consistency and to provide a discernible "map" for proceeding through the regulations. Each subpart of Part 122 includes three types of provisions:

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
	definition, even if it has not been "identified."	
(i) Subpart A describes general elements of the program, including definitions and classifications.		
(ii) Subpart B sets forth the general program requirements, including the performance standards applicable to all injection activities, basic elements that all UIC programs must contain, and provisions for waiving permit of rule requirements under certain circumstances.		
(iii) Subpart C sets forth requirements for wells authorized by rule.		
(iv) Subpart D sets forth permitting procedures.		
(v) Subpart E sets forth specific conditions, or types of conditions, that must at a minimum be included in all permits.		
(vi) Subpart F sets forth the financial responsibility requirements for owners and operators of all existing and new Class I hazardous waste injection wells.		
(vii) Subpart G of this part sets forth requirements for owners and operators of		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Class V injection wells.		
(2) Part 145. While part 144 sets forth minimum requirements for all UIC Programs, these requirements are specifically identified as elements of a State application for primacy to administer an UIC Program in part 145. Part 145 also sets forth the necessary elements of a State submission and the procedural requirements for approval of State programs.		
(3) Part 124. The public participation requirements that must be met by UIC Programs, whether administered by the State or by EPA, are set forth in part 124. EPA must comply with all part 124 requirements; State administered programs must comply with part 124 as required by part 145. These requirements carry out the purposes of the public participation requirement of 40 CFR part 25 (Public Participation), and supersede the requirements of that part as they apply to the UIC Program.		(d) <u>Public participation</u> . This rule establishes the requirements for public participation in State permit issuance, enforcement, and related variance proceedings; and in the approval of State UIC program. These requirements carry out the purposes of the public participation requirements of 40 CFR Part 25 (Public Participation), and supersede the requirements of that Part as they apply to actions covered under Parts 122 and 124.
(4) Part 146. This part sets forth the technical criteria and standards that must be met in permits and authorizations by rule as required by part 144.		
(g) Scope of the permit or rule requirement. The UIC Permit Program regulates underground injections by five		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<p>classes of wells (see definition of ``well injection," Sec. 144.3). The five classes of wells are set forth in Sec. 144.6. All owners or operators of these injection wells must be authorized either by permit or rule by the Director. In carrying out the mandate of the SDWA, this subpart provides that no injection shall be authorized by permit or rule if it results in the movement of fluid containing any contaminant into Underground Sources of Drinking Water (USDWs--see Sec. 144.3 for definition), if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 141 or may adversely affect the health of persons (Sec. 144.12). <del>Existing Class IV wells which inject hazardous waste directly into an underground source of drinking water are to be eliminated over a period of six months and new such Class IV wells are to be prohibited (Sec. 144.13).</del> For Class V wells, if remedial action appears necessary, a permit may be required (Sec. 144.25) or the Director must require remedial action or closure by order (Sec. 144.12(c)). <del>During UIC Program development, the Director may identify aquifers and portions of aquifers which are actual or potential sources of drinking water. This will provide an aid to the Director in carrying out his or her duty</del></p>		



Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
<p><del>to protect all USDWs.</del> An aquifer is a USDW if it fits the definition, even if it has not been "identified." The Director may also designate "exempted aquifers" using the criteria in 40 CFR 146.4. Such aquifers are those which would otherwise qualify as "underground sources of drinking water" to be protected, but which have no real potential to be used as drinking water sources. Therefore, they are not USDWs. No aquifer is an "exempted aquifer" until it has been affirmatively designated under the procedures in Sec. 144.7. Aquifers which do not fit the definition of "underground source of drinking water" are not "exempted aquifers." They are simply not subject to the special protection afforded USDWs.</p>		
<p>(1) Specific inclusions. The following wells are included among those types of injection activities which are covered by the UIC regulations. (This list is not intended to be exclusive but is for clarification only.)</p>	<p>20.4.1 Specific inclusions. The following wells are included among those types of injection activities which are addressed by Delaware UIC regulations. (This list is not intended to be exclusive but is for clarification only.)</p>	
<p>(i) Any injection well located on a drilling platform inside the State's territorial waters.</p>	<p>20.4.1.1 Any injection well located on a drilling platform inside the State's territorial waters.</p>	
<p>(ii) Any dug hole or well that is deeper than its largest surface dimension, where</p>	<p>20.4.1.2 Any dug hole or well that is deeper than its largest surface</p>	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
the principal function of the hole is emplacement of fluids.	dimension, where the principal function of the hole is emplacement of fluids.	
(iii) Any well used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.		
(iv) Any septic tank, cesspool, or other well used by a multiple dwelling, community, or Regional system for the injection of wastes.	20.4.1.3 Any on-site wastewater treatment and disposal system (septic), or other injection well used by a multiple dwelling, community, or regional system, for the injection of wastes, that are not permitted through the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems</u> . See Section 53.0 regarding cesspool requirements.	
	20.4.1.4 Any percolation ponds in direct contact with the water table.	
(2) Specific exclusions. The following are not covered by these regulations:	20.4.2 Specific exclusions. The following are not covered by these regulations:	
<del>(i) Injection wells located on a drilling platform or other site that is beyond the State's territorial waters.</del>		

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
(ii) Individual or single family residential waste disposal systems such as domestic cesspools or septic systems.	20.4.2.1 Individual or single family residential waste disposal systems such as domestic on-site wastewater treatment and disposal (septic) systems, which are addressed in the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems</u> .	
<del>(iii) Non-residential cesspools, septic systems or similar waste disposal systems if such systems (A) Are used solely for the disposal of sanitary waste, and (B) have the capacity to serve fewer than 20 persons a day.</del>	20.4.2.2 Water softener backwash from individual or single family residential water softeners.	
<del>(iv) Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.</del>		
(v) Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.	20.4.2.3 Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.	
<del>(3) The prohibition applicable to Class IV wells under Sec. 144.13 does not apply to injections of hazardous wastes into aquifers or portions thereof which have been exempted pursuant to Sec. 146.04.</del>		
<del>(h) Interim Status under RCRA for Class I Hazardous Waste Injection Wells. The minimum national standards which define</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>acceptable injection of hazardous waste during the period of interim status under RCRA are set out in the applicable provisions of this part, parts 146 and 147, and Sec. 265.430 of this chapter. The issuance of a UIC permit does not automatically terminate RCRA interim status. A Class I well's interim status does, however, automatically terminate upon issuance to that well of a RCRA permit, or upon the well's receiving a RCRA permit by rule under Sec. 270.60(b) of this chapter. Thus, until a Class I well injecting hazardous waste receives a RCRA permit or RCRA permit by rule, the well's interim status requirements are the applicable requirements imposed pursuant to this part and parts 146, 147, and 265 of this chapter, including any requirements imposed in the UIC permit.</del>		
<del>Sec. 144.2 Promulgation of Class II programs for Indian lands.</del>		
	<b>20.5 Noncompliance Notification</b>	
	20.5.1 The permittee shall report to the Department's Enforcement Section at (800) 662-8802 any unpermitted release or discharge of any contaminant into the air, or a pollutant, including petroleum substances, into surface waters, groundwater, or onto land as soon as the permittee has knowledge of, or should have had	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	knowledge of, the release or discharge.	
	20.5.2 If for any reason the permittee does not comply with, or will be unable to comply with, any effluent limitations or other conditions specified in the permit, the permittee shall provide the Department with the following information in writing within five (5) days of becoming aware of any actual or potential noncompliance:	
	20.5.2.1 A description and cause of the noncompliance with any limitation or condition.	
	20.5.2.2 The period of non-compliance including exact dates and times; or, if not yet corrected, the anticipated time the noncompliance is expected to continue.	
	20.5.2.3 The steps being taken or planned to reduce, eliminate and/or prevent recurrence of the noncompliant condition.	
	20.6 Bypassing	
	20.6.1 Any bypass of treatment facilities, or component thereof necessary to maintain compliance with the terms and conditions of a UIC permit or Rule Authorization Letter is prohibited unless:	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	20.6.1.1 The bypass is unavoidable to prevent loss of life, personal injury or severe property damage;	
	20.6.1.2 There are no alternatives;	
	20.6.1.3 The Department is orally notified within 24 hours after such bypass; and, a written submission regarding the bypass is submitted within five (5) days of the permittee's becoming aware of the bypass. Where the need for a bypass is known (or should have been known) in advance, this notification shall be submitted to the Department for approval at least 10 days prior or as soon as possible before the date of bypass; and	
	20.6.1.4 The bypass is allowed under conditions determined by the Department to be necessary to minimize adverse effects as provided under 7 Del. C. §6011.	
	20.7 Adverse Impact	
	Permittees shall take all steps to minimize any adverse impact to a USDW resulting from operation under the permit. Such steps may include, but not be limited to, accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge or mitigation of such impacts.	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
	20.8 State Laws	
	A UIC permit or Rule Authorization Letter shall not be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation.	
	20.9 Property Rights	
	The issuance of a UIC permit or Rule Authorization letter does not convey any property rights of either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.	
<b>Sec. 144.3 Definitions.</b>	<b>4.0 Acronyms and Definitions:</b>	
<b>Sec. 144.4 Considerations under Federal law.</b>	<i>(not shown here – listed in draft regs)</i>	<b>§122.12 Considerations under Federal law</b>
The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.		Permits shall be issued in a manner and shall contain conditions consistent with requirements of applicable Federal laws.



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(a) The Wild and Scenic Rivers Act, 16 U.S.C. 1273 et seq. Section 7 of the Act prohibits the Regional Administrator from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.		
(b) The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq. Section 106 of the Act and implementing regulations (36 CFR part 800) require the Regional Administrator, before issuing a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.		
(c) The Endangered Species Act, 16 U.S.C. 1531 et seq. Section 7 of the Act and implementing regulations (50 CFR part 402) require the Regional Administrator to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
adversely affect its critical habitat.		
(d) The Coastal Zone Management Act, 16 U.S.C. 1451 et seq. Section 307(c) of the Act and implementing regulations (15 CFR part 930) prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State Coastal Zone Management program, and the State or its designated agency concurs with the certification (or the Secretary of Commerce overrides the States nonconcurrence).		
(e) The Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq., requires the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State agency exercising jurisdiction over wildlife resources to conserve these resources.		
(f) Executive orders. [Reserved]		
<b>Sec. 144.5 Confidentiality of information.</b>	<b>Sec. 21.0 Confidentiality of information.</b>	<b>§122.19 Confidentiality of information.</b>
(a) In accordance with 40 CFR part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of	21.1 Any information submitted to the Department pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of	(a) In accordance with 40 CFR Part 2, any information submitted to DNREC pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words ``confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR part 2 (Public Information).	submission, in accordance with the Department's Freedom of Information Act Regulations and the Freedom of Information Act, 29 <b>Del. C.</b> Ch. 100. If no claim of confidentiality is made at the time of submission, the Department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with Department procedures.	submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, DNREC may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).
(b) Claims of confidentiality for the following information will be denied:	21.2 The following information shall not be deemed confidential:	(b) Claims of confidentiality for the following information will be denied:
(1) The name and address of any permit applicant or permittee;	21.2.1 The name and address of any permit applicant or permittee;	(1) The name and address of any permit applicant or permittee;
(2) Information which deals with the existence, absence, or level of contaminants in drinking water.	21.2.2 Information relating to the existence, absence, or level of contaminants in drinking water; and	(2) Information which deals with the existence, absence, or level of contaminants in drinking water.
	21.2.3 Any monitoring data submitted as part of a permit application or submitted as part of a permit requirement.	
<b>Sec. 144.6 Classification of wells.</b>	<b>58.0 Classification of injection wells.</b>	<b>§122.22 Classification of injection wells.</b>
Injection wells are classified as follows:	58.1 Injection wells are classified as follows: [note: some of these types of wells are prohibited in Delaware,	The following classifications apply to Parts 122 and 146:

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	including all Class II, III, IV, and VI injection wells]	
(a) Class I. (1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water.	58.2 Class I. 58.2.1 Wells used by generators, owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost aquifer containing, within one-quarter (¼) mile of the well bore, an underground source of drinking water.	(a) <u>Class I</u> (1) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing within one quarter mile of the well bore, an underground source of drinking water.
(2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water.	58.2.2 Industrial and domestic disposal wells which inject fluids beneath the lowermost aquifer containing, within one-quarter (¼) mile radius of the well bore, an underground source of drinking water.	(2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water.
(3) Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.		(iii) Radioactive waste disposal wells other than Class IV;
	58.2.3 Any other injection activity identified by the Department.	
(b) Class II. Wells which inject fluids:	58.3 Class II {prohibited}. Wells which inject fluids:	(b) <u>Class II</u> . – Wells used to inject fluids:
(1) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an intergral part of production	58.3.1 Which are brought to the surface in connection with natural gas storage or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of	(1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
operations, unless those waters are classified as a hazardous waste at the time of injection.	production operations, unless those waters are classified as a hazardous waste at the time of injection.	classified as a hazardous waste at the time of injection.
(2) For enhanced recovery of oil or natural gas; and	58.3.2 For enhanced recovery of oil or natural gas; and	(2) For enhanced recovery of oil or natural gas; and
(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.	58.3.3 For storage of hydrocarbons which are liquid at standard temperature and pressure.	(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.
(c) Class III. Wells which inject for extraction of minerals including:	58.4 Class III {prohibited}. Wells which inject for extraction of minerals including:	(c) <u>Class III</u> – Wells which inject for extraction of minerals or energy, including:
(1) Mining of sulfur by the Frasch process;	58.4.1 Mining of sulfur by the Frasch process;	(1) Mining of sulfur by the Frasch process;
(2) In situ production of uranium or other metals; this category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.	58.4.2 In situ production of uranium or other metals. This category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.	(2) In situ production of uranium or other metals;
(3) Solution mining of salts or potash.	58.4.3 Solution mining of salts or potash.	(3) Solution mining of salts or potash.
(d) Class IV. (1) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within one-quarter (1/4) mile of the well	58.5 Class IV {prohibited}. 58.5.1 Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or	(d) <u>Class IV</u> . (1) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous wastes management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which within one quarter



Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
contains an underground source of drinking water.	radioactive waste into a formation which contains an underground source of drinking water within one-quarter (¼) mile of the well.	(1/4) mile of the well contains an underground source of drinking water.
(2) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one-quarter (1/4) mile of the well contains an underground source of drinking water.	58.5.2 Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which contains an underground source of drinking water within one-quarter (¼) mile of the well.	(2) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter (1/4) mile of the well contains an underground source of drinking water.
(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under paragraph (a)(1) or (d) (1) and (2) of this section (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to Sec. 146.04).	58.5.3 Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under this Section (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to Section 57.0).	(3) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to dispose of hazardous wastes, which cannot be classified under §122.22(a)(1) or 122.22 (d)(1) and (2) (e.g. wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to §146.04).
(e) Class V. Injection wells not included in Class I, II, III, or IV. Specific types of Class V injection wells are described in Sec. 144.81.	58.6 Class V. Injection wells not included in Class I, II, III, IV or VI. Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface.	(e) <u>Class V</u> – Injection wells not included in Class I, II, III, or IV. Class V wells include: [text not shown]

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	However, if the fluids placed in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), the well is either a Class I or Class IV well, not a Class V well. Examples of Class V wells include, but are not limited to:	
	58.6.1 Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;	
	58.6.2 Cooling water return flow wells used to inject water previously used for cooling, which contain no additives;	
	58.6.3 Drainage wells used to discharge or inject surface fluid, primarily storm runoff, directly into a USDW;	
	58.6.4 Recharge wells used to replenish the water in an aquifer;	
	58.6.5 Salt water intrusion barrier wells used to inject potable water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;	
	58.6.6 Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined-out portions of subsurface mines whether what is injected is a radioactive waste or not;	
	58.6.7 Septic system wells used to inject the waste or effluent from a	



Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	multiple dwelling, business establishment, or community septic tank. The UIC requirements do not apply to single family residential septic system wells, or to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day; see also the State of Delaware Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems;	
	58.6.8 Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;	
	58.6.9 Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power;	
	58.6.10 Experimental injection well technologies; and	
	58.6.11 Aquifer Storage and Recovery (ASR) wells.	
	58.6 Class VI {prohibited}. Injection wells used to inject Carbon Dioxide (CO <sub>2</sub> ) for long-term storage, also known as Geologic Sequestration of	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
	CO <sub>2</sub> .	
<b>Sec. 144.7 Identification of underground sources of drinking water and exempted aquifers.</b>	<b>Sec. 22.0 Identification of underground sources of drinking water and exempted aquifers.</b>	<b>§122.25 Identification of underground sources of drinking water and exempted aquifers.</b>
(a) The Director may identify (by narrative description, illustrations, maps, or other means) and shall protect, except where exempted under paragraph (b) of this section, as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water" in Sec. 144.3. Even if an aquifer has not been specifically identified by the Director, it is an underground source of drinking water if it meets the definition in Sec. 144.3.	22.1 The Department may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water" in Section 4.0 except where exempted under subsection 22.2. Even if an aquifer has not been specifically identified by the Department, it is an underground source of drinking water if it meets the definition in Section 4.0.	(a) The Secretary may identify (by narrative description, illustrations, maps, or other means) and shall protect, except where exempted under paragraph (b) of this section, as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water" in §122.3. Even if an aquifer has not been specifically identified by the Secretary, it is an underground source of drinking water if it meets the definition in §122.3.
(b)(1) The Director may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) which are clear and definite, all aquifers or parts thereof which the Director proposes to designate as exempted aquifers using the criteria in 40 CFR 146.04.	22.2 The Department may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and geometric terms (such as vertical and lateral limits and gradient) which are clear and definite, all aquifers or parts thereof which the Department proposes to designate as exempted aquifers using the criteria in Section 57.0.	(b)(1) The Secretary may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) which are clear and definite, all aquifers or parts thereof which the Secretary proposes to designate as exempted aquifers using the criteria in §146.04.
(2) No designation of an exempted aquifer submitted as part of a UIC Program shall be final until approved by the	22.3 No designation of an exempted aquifer submitted as part of a UIC Program shall be final until approved	(2) No designation of an exempted aquifer submitted as part of a UIC program shall be final until approved by the

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Administrator as part of a UIC program.	by the EPA Administrator as part of Delaware's UIC program.	Administrator as part of the State program.
(3) Subsequent to program approval or promulgation, the Director may, after notice and opportunity for a public hearing, identify additional exempted aquifers. For approved State programs exemption of aquifers identified (i) under Sec. 146.04(b) shall be treated as a program revision under Sec. 145.32; (ii) under Sec. 146.04(c) shall become final if the State Director submits the exemption in writing to the Administrator and the Administrator has not disapproved the designation within 45 days. Any disapproval by the Administrator shall state the reasons and shall constitute final Agency action for purposes of judicial review.	22.4 Subsequent to program approval or promulgation, the Department may, after notice and opportunity for a public hearing, identify additional exempted aquifers. Aquifer exemptions shall only occur if the Department submits the exemption in writing to the EPA Administrator and the EPA Administrator has not disapproved the designation.	(3) Subsequent to program approval, the Secretary may, after notice and opportunity for a public hearing, identify additional exempted aquifers. Exemption of aquifers identified (i) under §146.04(b) shall be treated as a program revision; (ii) under §146.04(c) shall become final if the Secretary submits the exemption in writing to the Administrator and the Administrator has not disapproved the designation within 45 days. Any disapproval by the Administrator shall state the reasons and shall constitute final agency action for purposes of judicial review.
<del>(e)(1) For Class III wells, the Director shall require an applicant for a permit which necessitates an aquifer exemption under Sec. 146.04(b)(1) to furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>the mining zone to the proposed mining method, and a time table of planned development of the mining zone shall be considered by the Director in addition to the information required by Sec. 144.31(g).</del>		
<p>(2) For Class II wells, a demonstration of commercial producibility shall be made as follows:</p> <p>(i) For a Class II well to be used for enhanced oil recovery processes in a field or project containing aquifers from which hydrocarbons were previously produced, commercial producibility shall be presumed by the Director upon a demonstration by the applicant of historical production having occurred in the project area or field.</p> <p>—(ii) For Class II wells not located in a field or project containing aquifers from which hydrocarbons were previously produced, information such as logs, core data, formation description, formation depth, formation thickness and formation parameters such as permeability and porosity shall be considered by the Director, to the extent such information is available.</p>		
<b>Sec. 144.8 Noncompliance and program reporting by the Director.</b>		(none)
The Director shall prepare quarterly and		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
annual reports as detailed below. When the State is the permit-issuing authority, the State Director shall submit any reports required under this section to the Regional Administrator. <del>When EPA is the permit-issuing authority, the Regional Administrator shall submit any report required under this section to EPA Headquarters.</del>		
(a) Quarterly reports. The Director shall submit quarterly narrative reports for major facilities as follows:		
(1) Format. The report shall use the following format:		
(i) Provide an alphabetized list of permittees. When two or more permittees have the same name, the lowest permit number shall be entered first.		
(ii) For each entry on the list, include the following information in the following order:		
(A) Name, location, and permit number of the noncomplying permittees.		
(B) A brief description and date of each instance of noncompliance for that permittee. Instances of noncompliance may include one or more the kinds set forth in paragraph (a)(2) of this section. When a permittee has noncompliance of more than one kind, combine the information into a single entry for each such permittee.		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(C) The date(s) and a brief description of the action(s) taken by the Director to ensure compliance.		
(D) Status of the instance(s) of noncompliance with the date of the review of the status or the date of resolution.		
(E) Any details which tend to explain or mitigate the instance(s) of noncompliance.		
(2) Instances of noncompliance to be reported. Any instances of noncompliance within the following categories shall be reported in successive reports until the noncompliance is reported as resolved. Once noncompliance is reported as resolved it need not appear in subsequent reports.		
(i) Failure to complete construction elements. When the permittee has failed to complete, by the date specified in the permit, an element of a compliance schedule involving either planning for construction or a construction step (for example, begin construction, attain operation level); and the permittee has not returned to compliance by accomplishing the required elements of the schedule within 30 days from the date a compliance schedule report is due under the permit.		
(ii) Modifications to schedules of compliance. When a schedule of compliance in the permit has been modified under Sec. Sec. 144.39 or 144.41		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
because of the permittee's noncompliance.		
(iii) Failure to complete or provide compliance schedule or monitoring reports. When the permittee has failed to complete or provide a report required in a permit compliance schedule (for example, progress report or notice of noncompliance or compliance) or a monitoring report; and the permittee has not submitted the complete report within 30 days from the date it is due under the permit for compliance schedules, or from the date specified in the permit for monitoring reports.		
(iv) Deficient reports. When the required reports provided by the permittee are so deficient as to cause misunderstanding by the Director and thus impede the review of the status of compliance.		
(v) Noncompliance with other permit requirements. Noncompliance shall be reported in the following circumstances:		
(A) Whenever the permittee has violated a permit requirement (other than reported under paragraph (a)(2) (i) or (ii) of this section), and has not returned to compliance within 45 days from the date reporting of noncompliance was due under the permit; or		
(B) When the Director determines that a pattern of noncompliance exists for a major facility permittee over the most		



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
recent four consecutive reporting periods. This pattern includes any violation of the same requirement in two consecutive reporting periods, and any violation of one or more requirements in each of four consecutive reporting periods; or		
(C) When the Director determines significant permit noncompliance or other significant event has occurred, such as a migration of fluids into a USDW.		
(vi) All other. Statistical information shall be reported quarterly on all other instances of noncompliance by major facilities with permit requirements not otherwise reported under paragraph (a) of this section.		
(b) Annual reports--(1) Annual noncompliance report. Statistical reports shall be submitted by the Director on nonmajor UIC permittees indicating the total number reviewed, the number of noncomplying nonmajor permittees, the number of enforcement actions, and number of permit modifications extending compliance deadlines. The statistical information shall be organized to follow the types of noncompliance listed in paragraph (a) of this section.		
(2) For State-administered UIC Programs only. In addition to the annual noncompliance report, the State Director shall:		
(i) Submit each year a program report to		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
the Administrator (in a manner and form prescribed by the Administrator) consisting of:		
(A) A detailed description of the State's implementation of its program;		
(B) Suggested changes, if any to the program description (see Sec. 145.23(f)) which are necessary to reflect more accurately the State's progress in issuing permits;		
(C) An updated inventory of active underground injection operations in the State.		
<del>(ii) In addition to complying with the requirements of paragraph (b)(2)(i) of this section, the Director shall provide the Administrator, on February 28th and August 31st of each of the first two years of program operation, the information required in 40 CFR 146.15, 146.25, and 146.35.</del>		
(c) Schedule. (1) For all quarterly reports. On the last working day of May, August, November, and February, the State Director shall submit to the Regional Administrator information concerning noncompliance with permit requirements by major facilities in the State in accordance with the following schedule. <del>The Regional Administrator shall prepare and submit information for EPA issued permits to EPA Headquarters in</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>accordance with the same schedule.</del>		
Quarters Covered by Reports on Noncompliance by Major Facilities [Date for completion of reports]		
January, February, and March..... \1\ May 31  April, May, and June..... \1\ Aug. 31  July, August, and September..... \1\ Nov. 30  October, November, and December..... \1\ Feb. 28  \1\ Reports must be made available to the public for inspection and copying on this date.		
(2) For all annual reports. The period for annual reports shall be for the calendar year ending December 31, with reports completed and available to the public no more than 60 days later.		
<b>Sec. 144.11 Prohibition of unauthorized injection.</b>	<b>Sec. 23.0 Prohibition of unauthorized injection.</b>	<b>§122.23 Prohibition of unauthorized injection; Prohibition of all Class II, III and IV wells; Prohibition of Class I and V wells except as specifically provided.</b>
Any underground injection, except into a well authorized by rule or except as authorized by permit issued under the UIC program, is prohibited. The construction of	Any underground injection, except into a well authorized by rule or has been authorized by Rule Authorization letter or permit issued under the UIC	(a) Any underground injection, except as authorized by permit issued under the UIC program or otherwise authorized herein, is prohibited. The construction of any well

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
any well required to have a permit is prohibited until the permit has been issued.	program, is prohibited. The construction of any well required to have a UIC permit or Rule Authorization letter is prohibited until the UIC permit or Rule Authorization letter has been issued.	required to have a permit is prohibited until the permit is issued.
<b>Sec. 144.12 Prohibition of movement of fluid into underground sources of drinking water.</b>	<b>Sec. 24.0 Prohibition of movement of fluid into underground sources of drinking water.</b>	<b>§122.24 Prohibition of movement of fluid into underground sources of drinking water.</b>
(a) No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 142 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.	24.1 No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of the State of Delaware Primary Drinking Water Standards or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this Section are met.	(a) No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR Part 142 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.
(b) For Class I, II and III wells, if any water quality monitoring of an underground source of drinking water indicates the movement of any contaminant into the underground source of drinking water, except as authorized	24.2 For Class I wells, if any water quality monitoring of an underground source of drinking water indicates the movement of any contaminant into the underground source of drinking water, except as authorized under Sections	(b) For Class I wells, if any water quality monitoring of an underground source of drinking water indicates the movement of any contaminant into the underground source of drinking water, except as authorized under Part 146, the Secretary

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
under part 146, the Director shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit in accordance with Sec. 144.39, or the permit may be terminated under Sec. 144.40 if cause exists, or appropriate enforcement action may be taken if the permit has been violated. In the case of wells authorized by rule, see Sec. Sec. 144.21 through 144.24. <del>For EPA administered programs, such enforcement action shall be taken in accordance with appropriate sections of the SDWA.</del>	55.0-70.0, the Department shall prescribe such additional requirements for construction, corrective action (including closure of the injection well), operation, monitoring, or reporting as are necessary to prevent such movement. These additional requirements may be imposed by modifying the permit in accordance with Section 40.0, or the permit may be terminated under Section 41.0. Appropriate enforcement action may be taken if a permit condition has been violated.	shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by a permit, these additional requirements shall be imposed by modifying the permit in accordance with §124.4, or the permit may be terminated under §124.4 if cause exists, or appropriate enforcement action may be taken if the permit has been violated.
(c) For Class V wells, if at any time the Director learns that a Class V well may cause a violation of primary drinking water regulations under 40 CFR part 142, he or she shall:	24.3 For Class V wells, if at any time the Department learns that a Class V well may cause a violation of primary drinking water regulations under State of Delaware Public Drinking Water Systems, the Department shall:	(c) For Class V wells, if at any time the Secretary learns that a Class V well may cause a violation of primary drinking water regulations under 40 CFR Part 142, he or she shall:
(1) Require the injector to obtain an individual permit;	24.3.1 Require the injector to obtain an individual UIC permit;	(1) Require the injector to obtain an individual permit;
(2) Order the injector to take such actions (including, where required, closure of the injection well) as may be necessary to	24.3.2 Order the injector to take such actions (including, where required, closure of the injection well)	(2) Order the injector to take such actions (including where required closure of the injection well) as may be necessary to

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
prevent the violation. <del>For EPA administered programs, such orders shall be issued in accordance with the appropriate provisions of the SDWA; or</del>	as may be necessary to prevent the violation; or	prevent the violation; or
(3) Take enforcement action.	24.3.3 Take enforcement action.	(3) Take enforcement action.
(d) Whenever the Director learns that a Class V well may be otherwise adversely affecting the health of persons, he or she may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under paragraph (c) of this section.	24.4 Whenever the Department learns that a Class V well may be otherwise adversely affecting the health of persons, the Department may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under subsection 24.3.	(d) Whenever the Secretary learns that a Class V well may be otherwise adversely affecting the health of persons, he or she may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under paragraph (c) of this section.
(e) Notwithstanding any other provision of this section, the Director may take emergency action upon receipt of information that a contaminant which is present in or likely to enter a public water system or underground source of drinking water may present an imminent and substantial endangerment to the health of persons. <del>If the Director is an EPA official, he must first determine that the appropriate State and local authorities have not taken appropriate action to protect the health of such persons, before taking emergency action.</del>	24.5 Notwithstanding any other provision of this Section, the Department may take emergency action upon receipt of information that a contaminant which may constitute an imminent and substantial danger or threat to the health of persons is present in or is likely to enter a public water system or USDW.	(e) Notwithstanding any other provision of this section, the Secretary may take emergency action upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons.
<b>Sec. 144.13 Prohibition of Class IV wells.</b>	<b>25.0 Prohibition of unauthorized injection; Prohibition of all Class II, III, IV and VI wells; Prohibition of Class I and V wells</b>	<b>§122.23 Prohibition of unauthorized injection; Prohibition of all Class II, III and IV wells; Prohibition of Class I and V wells except as specifically provided.</b>

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(a) The following are prohibited, except as provided in paragraph (c) of this section:	25.1 The following is prohibited, except as provided in subsection 25.1.2:	(a) Any underground injection, except as authorized by permit issued under the UIC program or otherwise authorized herein, is prohibited. The construction of any well required to have a permit is prohibited until the permit is issued.
(1) The construction of any Class IV well.	25.1.1 The construction, use, operation, or modification of any of the following wells is hereby expressly prohibited and no permit may be issued for any such activity in Delaware: Class I well used to inject hazardous waste; Class II, Class III, Class IV, and Class VI injection wells.	(b) The construction, use, operation or modification of any Class II, III or IV well as defined in these regulations is hereby expressly prohibited and no permit may be issued for any such activity.
<del>(2) The operation or maintenance of any Class IV well not in operation prior to July 18, 1980.</del>		
<del>(3) The operation or maintenance of any Class IV well that was in operation prior to July 18, 1980, after six months following the effective date of a UIC program approved or promulgated for the state.</del>		
<del>(4) Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into a Class IV well.</del>		
(b) The owner or operator of a Class IV well shall comply with the requirements of Sec. 144.14, and with the requirements of Sec. 144.23 regarding closure of Class IV wells.		



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(c) Wells used to inject contaminated ground water that has been treated and is being reinjected into the same formation from which it was drawn are not prohibited by this section if such injection is approved by EPA, or a State, pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601-9657, or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 through 6987.	25.1.2 Wells used to inject contaminated Groundwater that has been treated to primary drinking water standards and is being re-injected into the same formation from which it was drawn are not prohibited by this Section if such injection is approved by the Department pursuant to provisions for cleanup of releases under the appropriate DNREC or Federal program.	
<del>(d) Clarification. The following wells are not prohibited by this action:</del>		
<del>(1) Wells used to inject hazardous waste into aquifers or portions thereof that have been exempted pursuant to Sec. 146.4, if the exempted aquifer into which waste is injected underlies the lowermost formation containing a USDW. Such wells are Class I wells as specified in Sec. 144.6(a)(1); and the owner or operator must comply with the requirements applicable to Class I wells.</del>		
<del>(2) Wells used to inject hazardous waste where no USDW exists within one quarter mile of the well bore in any underground formation, provided that the Director determines that such injection is into a formation sufficiently isolated to ensure</del>		

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
<del>that injected fluids do not migrate from the injection zone. Such wells are Class I wells as specified in Sec. 144.6(a)(1), and the owner or operator must comply with the requirements applicable to Class I wells.</del>		
<del>Sec. 144.14 Requirements for wells injecting hazardous waste. [full text not showing here]</del>		none
(no section 144.15 in federal regs)		
<b>Sec. 144.16 Waiver of requirement by Director.</b>	<b>Sec. 26.0 Waiver of requirement by Department.</b>	<b>§122.33 Waiver of requirements by Director.</b>
(a) When injection does not occur into, through or above an underground source of drinking water, the Director may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in 40 CFR part 146 or Sec. 144.52 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.	26.1 When injection does not occur into or through an underground source of drinking water, the Department may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in Part 146 (Sections 55.0-70.0) or Section 44.0 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.	(a) When injection does not occur into, through or above an underground source of drinking water, the Secretary may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in Part 146 or §122.32 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.
(b) When injection occurs through or above an underground source of drinking water, but the radius of endangering influence when computed under Sec. 146.06(a) is smaller or equal to the radius of the well, the Director may authorize a well or project with less stringent	26.2 When injection occurs through or above an underground source of drinking water, but the radius of endangering influence when computed under Section 59.0 is smaller or equal to the radius of the well, the Department may authorize a well or	(b) When injection occurs through or above an underground source of drinking water, but the radius of endangering influence when computed under §146.06(a) is smaller or equal to the radius of the well, the Secretary may authorize a well or project with less stringent

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
requirements for operation, monitoring, and reporting than required in 40 CFR part 146 or Sec. 144.52 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.	project with less stringent requirements for operation, monitoring, and reporting than required in Part 146 (Sections 55.0-70.0) or Section 44.0 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.	requirements for operation, monitoring, and reporting than required in Part 146 or §122.32 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.
(c) When reducing requirements under paragraph (a) or (b) of this section, the Director shall prepare a fact sheet under Sec. 124.8 explaining the reasons for the action.	26.3 When reducing requirements under subsection 26.1 or 26.2, the Department shall prepare a fact sheet under Section 9.0, explaining the reasons for the action.	(c) When reducing requirements under paragraph (a) or (b) of this section, the Secretary shall prepare a fact sheet under State procedures explaining the reasons for the action.
<b>Sec. 144.17 Records.</b>	<b>Sec. 27.0 Records.</b>	<b>Belongs in §122.11 Requirements for recording and reporting of monitoring results.</b>
The Director or the Administrator may require, by written notice on a selective well-by-well basis, an owner or operator of an injection well to establish and maintain records, make reports, conduct monitoring, and provide other information as is deemed necessary to determine whether the owner or operator has acted or is acting in compliance with Part C of the SDWA or its implementing regulations.	The Department may require, by written notice, an owner or operator of an injection well to establish and maintain records, make reports, conduct monitoring, and provide other information as is deemed necessary to determine whether the owner or operator has acted or is acting in compliance with these Regulations. All records shall be maintained for a minimum of five (5) years beyond Permit expiration date. All records and information resulting from the monitoring activities required by this Permit including all records of analyses	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
	performed calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation shall be retained for five (5) years. This period of retention shall be automatically extended during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Department.	
<del>Sec. 144.21 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells.</del> [full text not showing here]		
<del>Sec. 144.22 Existing Class II enhanced recovery and hydrocarbon storage wells.</del> [full text not showing here]		
<del>Sec. 144.23 Class IV wells.</del> [full text not showing here]		
<b>Sec. 144.24 Class V wells.</b>	<b>Sec. 28.0 Class V wells.</b>	Thru-out state regs
(a) A Class V injection well is authorized by rule, subject to the conditions in Sec. 144.84	28.1 A Class V injection well may be authorized by rule, subject to the conditions in Section 52.0.	
(b) Duration of well authorization by rule. Well authorization under this section expires upon the effective date of a permit issued pursuant to Sec. Sec. 144.25, 144.31, 144.33 or 144.34, or upon proper closure of the well.	28.2 Duration of well authorization by rule. Wells that are authorization by rule under this Section expire upon the noted expiration date of the authorization, the issuance of a permit, or upon proper closure of the well (when applicable).	
(c) Prohibition of injection. An owner or	28.3 Prohibition of injection. An	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
operator of a well which is authorized by rule pursuant to this section is prohibited from injecting into the well:	owner or operator of a well which is authorized by rule pursuant to this Section is prohibited from injecting into the well:	
(1) Upon the effective date of an applicable permit denial;	28.3.1 Any fluid that would cause a violation of any primary drinking water standard;	
(2) Upon failure to submit a permit application in a timely manner pursuant to Sec. Sec. 144.25 or 144.31;	28.3.2 Upon the effective date of an applicable permit denial;	
(3) Upon failure to submit inventory information in a timely manner pursuant to Sec. 144.26; or	28.3.3 Upon failure to submit a permit application in a timely manner pursuant to Section 32.0;	
(4) Upon failure to comply with a request for information in a timely manner pursuant to Sec. 144.27.	28.3.4 Upon failure to submit inventory information in a timely manner pursuant to Section 30.0; or	
	28.3.5 Upon failure to comply with a request for information in a timely manner pursuant to Section 31.0.	
<b>Sec. 144.25 Requiring a permit.</b>	<b>Sec. 29.0 Classes of wells requiring a permit.</b>	none
(a) The Director may require the owner or operator of any Class I, <del>II, III or V</del> injection well <del>which is authorized by rule under this subpart</del> to apply for and obtain an individual or area UIC permit. Cases where individual or area UIC permits may be required include:	29.1 The Department shall require the owner or operator of any Class V injection well that is not authorized by rule to apply for and obtain an individual UIC permit. An individual UIC permit shall also be required when:	
(1) The injection well is not in compliance with any requirement of the rule;	29.1.1 The injection well is not in compliance with one or more conditions of the rule. Any	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
Note: Any underground injection which violates any authorization by rule is subject to appropriate enforcement action.	underground injection which violates any authorization by rule is subject to appropriate enforcement action.	
(2) The injection well is not or no longer is within the category of wells and types of well operations authorized in the rule;	29.1.2 The injection well is no longer within the category of wells and types of well operations authorized in these Regulations.	
(3) The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, which are not contained in the rule.	29.1.3 The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, mechanical integrity (as applicable), or operation, which are not contained in the rule.	
(4) When the injection well is a Class I, <del>II (except existing enhanced recovery and hydrocarbon storage) or III</del> well, in accordance with a schedule established by the Director pursuant to Sec. 144.31(c).	29.1.4 When the injection well is a Class I well, in accordance with a schedule established by the Department pursuant to Section 32.0.	
	29.2 Class V injection wells utilized for large and community wastewater disposal systems and OWTDS shall be permitted in accordance with the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-site Wastewater Treatment and Disposal Systems</u> , and do not require a separate UIC permit.	
<del>(b) For EPA-administered programs, the Regional Administrator may require an owner or operator of any well which is</del>		



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>authorized by rule under this subpart to apply for an individual or area UIC permit under this paragraph only if the owner or operator has been notified in writing that a permit application is required. The owner or operator of a well which is authorized by rule under this subpart is prohibited from injecting into the well upon the effective date of permit denial, or upon failure by the owner or operator to submit an application in a timely manner as specified in the notice. The notice shall include: a brief statement of the reasons for requiring a permit; an application form; a statement setting a time for the owner or operator to file the application; and a statement of the consequences of denial or issuance of the permit, or failure to submit an application, as described in this paragraph.</del>		
(c) An owner or operator of a well authorized by rule may request to be excluded from the coverage of this subpart by applying for an individual or area UIC permit. The owner or operator shall submit an application under Sec. 144.31 with reasons supporting the request, to the Director. The Director may grant any such requests.	29.3 An owner or operator of a well that has been authorized by rule may request to be excluded from the coverage of this subpart by applying for an individual UIC permit. Such owner or operator shall submit to the Department an application under Section 32.0 with reasons supporting the request. The Department may grant or deny any such requests at the Department's discretion.	
<b>Sec. 144.26 Inventory requirements.</b>	<b>Sec. 30.0 Inventory requirements.</b>	None (part of permit appl)



Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
The owner or operator of an injection well which is authorized by rule under this subpart shall submit inventory information to the Director. Such an owner or operator is prohibited from injecting into the well upon failure to submit inventory information for the well within the time frame specified in paragraph (d) of this section.	30.1 The owner or operator of an injection well which is authorized by rule under this subpart shall submit inventory information to the Department. Such an owner or operator is prohibited from injecting into the well if such inventory information is not submitted in a timely manner, as requested by the Department.	
(a) Contents. As part of the inventory, the Director shall require and the owner/operator shall provide at least the following information:	30.1.1 Contents. As part of the inventory, the owner/operator shall provide at least the following information:	
(1) Facility name and location;	30.1.1.1 Facility name and physical location;	
(2) Name and address of legal contact;	30.1.1.2 Name, physical address and phone number of legal contact;	
(3) Ownership of facility;	30.1.1.3 Ownership of facility;	
(4) Nature and type of injection wells; and	30.1.1.4 Quantity and type of injection wells;	
(5) Operating status of injection wells.  Note: This information is requested on national form ``Inventory of Injection Wells," OMB No. 158-R0170.	30.1.1.5 Operating status of injection wells;	
	30.1.1.6 Any other	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	information requested; and	
	30.1.1.7 A response to any written request for information from the GWDS.	
(b) Additional contents. <del>For EPA administered programs only, the owner or operator of a well listed in paragraph (b)(1) of this section shall provide the information listed in paragraph (b)(2) of this section.</del> [b(1) and b(2) text not showing]		
(c) Notice. Upon approval of the UIC Program in a State, the Director shall notify owners or operators of injection wells of their duty to submit inventory information. The method of notification selected by the Director must assure that the owners or operators will be made aware of the inventory requirement.	30.2 The Department shall notify owners or operators of injection wells of their duty to submit inventory information.	
(d) Deadlines. (1) <del>The owner or operator of an injection well shall submit inventory information no later than one year after the date of approval or effective date of the UIC program for the State.</del> The Director need not require inventory information from any facility with interim status under RCRA.		
<del>(2) For EPA administered programs the information need not be submitted if a complete permit application is submitted within one year of the effective data of the</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>UIC program. The owner or operator of Class IV well shall submit inventory information no later than 60 days after the effective date of the program.</del>		
<b>Sec. 144.27 Requiring other information.</b>	<b>Sec. 31.0 Requiring other information.</b>	none
<del>(a) For EPA administered programs only, in addition to the inventory requirements of Sec. 144.26, the Regional Administrator may require the owner or operator of any well authorized by rule under this subpart to submit information as deemed necessary by the Regional Administrator to determine whether a well may be endangering an underground source of drinking water in violation of Sec. 144.12 of this part.</del>	31.1 The Department may require the owner or operator of any well that has been authorized by rule under this subpart to submit information deemed necessary by the Department to determine whether a well may be contaminating, or poses a threat of contamination to, an underground source of drinking water in violation of Section 24.0.	
(b) Such information requirements may include, but are not limited to:	31.2 The Department may require, among other things:	
(1) Performance of ground-water monitoring and the periodic submission of reports of such monitoring;	31.2.1 Performance of ground-water monitoring and the periodic submission of reports of such monitoring;	
(2) An analysis of injected fluids, including periodic submission of such analyses; and	31.2.2 An analysis of injected fluids, including periodic submission of such analyses; and	
(3) A description of the geologic strata through and into which injection is taking place.	31.2.3 A description of the geologic strata through and into which injection is taking place.	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	31.2.4 A determination of the location of private supply wells and public supply wells within ¼ mile radius from the injection area.	
(c) Any request for information under this section shall be made in writing, and include a brief statement of the reasons for requiring the information. An owner or operator shall submit the information within the time period(s) provided in the notice.	31.3 Any request for information under this Section shall be made by the Department in writing, and may include a brief statement of the reasons for requiring the information. An owner or operator shall submit the information within the time period(s) provided in the notice.	
(d) An owner or operator of an injection well authorized by rule under this subpart is prohibited from injecting into the well upon failure of the owner or operator to comply with a request for information within the time period(s) specified by the Director pursuant to paragraph (c) of this section. An owner or operator of a well prohibited from injection under this section shall not resume injection except under a permit issued pursuant to Sec. <del>See</del> 144.25, 144.31, 144.33 or 144.34.	31.4 An owner or operator of an injection well that has been authorized by rule under this subpart is prohibited from injecting into such well if the owner or operator fails to comply with a request for information within the time period(s) specified by the Department pursuant to subsection 31.3. An owner or operator of a well prohibited from injection under this Section shall not resume injection except under a permit issued pursuant to Section 29.0 or 32.0.	
	31.5 The applicant is required to submit any requested information, within the time requested by the GWDS or the application may be returned as incomplete.	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Sec. 144.28 Requirements for Class I, II, and III wells authorized by rule.		none
<b>Sec. 144.31 Application for a permit; authorization by permit.</b>	<b>Sec. 32.0 Application for a permit.</b>	<b>§122.4 Application for a permit and §122.28 Application for a permit; authorization by permit. And §124.3 Application for a permit(?).</b>
(a) Permit application. Unless an underground injection well is authorized by rule under subpart C of this part, all injection activities including construction of an injection well are prohibited until the owner or operator is authorized by permit. An owner or operator of a well currently authorized by rule must apply for a permit under this section unless well authorization by rule was for the life of the well or project. Authorization by rule for a well or project for which a permit application has been submitted terminates for the well or project upon the effective date of the permit. Procedures for applications, issuance and administration of emergency permits are found exclusively in Sec. 144.34. A RCRA permit applying the standards of part 264, subpart C of this chapter will constitute a UIC permit for hazardous waste injection wells for which the technical standards in part 146 of this chapter are not generally appropriate.	32.1 Permit application. Unless an underground injection well is authorized by rule, all injection activities including construction of an injection well are prohibited until the owner or operator has received a Rule Authorization letter or a Permit. An owner or operator of a well that is currently authorized by rule must apply for a permit under this Section if the owner or operator fails to comply with the authorization by rule. Authorization by rule for a well or project for which a permit application has been submitted terminates for the well or project upon the effective date of the permit. Procedures for applications, issuance and administration of emergency permits are found in Section 35.0.	(a) <u>Permit application</u> . Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Secretary as described in this section and in §122.28. Procedures for applications, issuance and administration of emergency permits are found exclusively in §122.30.  <b>§122.28 Application for a permit; authorization by permit.</b> (a) Permit application. All underground injections into Class I wells in the State are prohibited unless authorized by permit.
(b) Who applies? When a facility or activity is owned by one person but is operated by another person, it is the	32.2 Potential Applicants. When a facility or activity is owned by one person but is operated by another	(b) <u>Who applies?</u> When a facility or activity is owned by one person, but is operated by another person, it is the

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
operator's duty to obtain a permit.	person, it is the operator's duty to obtain a permit; however, the Department may require that the property owner obtain a permit.	operator's duty to obtain a permit. The owner must also sign the permit application.
(c) Time to apply. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Director in accordance with the UIC program as follows:	32.3 Time to apply. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Department in accordance with the UIC program as follows:	<b>§122.28 Application for a permit; authorization by permit.</b> (b) Time to apply. Any person who proposes an underground injection for which a permit is or will be required shall submit an application (Form UIC Application) to the Secretary in a reasonable time before construction is expected to begin.
(1) For existing wells, as expeditiously as practicable and in accordance with the schedule in any program description under Sec. 145.23(f) <del>or (for EPA administered programs) on a schedule established by the Regional Administrator, but no later than 4 years from the approval or promulgation of the UIC program, or as required under Sec. 144.14(b) for wells injecting hazardous waste. For EPA administered programs the owner or operator of Class I or III wells shall submit a complete permit application no later than 1 year after the effective date of the program.</del>	32.3.1 For existing, unpermitted injection activities or wells, within 180 days from being located, must come into compliance with these regulations or subsequent revisions thereof.	
(2) For new injection wells, except new wells in projects authorized under Sec. 144.21(d) or authorized by an existing area permit under Sec. 144.33(c), a reasonable time before construction is expected to	32.3.2 For new injection wells, a minimum of 60 days before construction is expected to begin.	



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
begin.		
(d) Completeness. The Director shall not issue a permit before receiving a complete application for a permit except for emergency permits. An application for a permit is complete when the Director receives an application form and any supplemental information which are completed to his or her satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. <del>For EPA-administered programs, an application which is reviewed under Sec. 124.3 is complete when the Director receives either a complete application or the information listed in a notice of deficiency.</del>	32.4 Completeness. The Department will not issue a permit before receiving a complete application for a permit. An application for a permit is complete when the Department receives an application form and any supplemental information which are completed to the Department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.	(c) <u>Completeness</u> . The Secretary shall not issue a permit before receiving a complete application for a permit under this program except for emergency permits. An application for a permit is complete when the Secretary receives an application form and any supplemental information which are completed to his or her satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.
(e) Information requirements. All applicants for permits shall provide the following information to the Director, using the application form provided by the Director.	32.5 Information requirements. All applicants for permits shall provide the following information to the Department, using the application form provided by the Department.	(d) <u>Information Requirements</u> . All applicants for UIC permits shall provide the following information to the Secretary, using the application form provided by the Secretary (additional information required of applicants is set forth in §122.28).
(1) The activities conducted by the applicant which require it to obtain permits under RCRA, UIC, the National Pollution Discharge Elimination system (NPDES) program under the Clean Water Act, or the Prevention of Significant Deterioration	32.5.1 The activities conducted by the applicant which require it to obtain a permit(s) under UIC.	(1) The activities conducted by the applicant which require it to obtain permits under UIC.



Current FED regs Part 144 Underground Injection Control Program (PSD) program under the Clean Air Act.	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(2) Name, mailing address, and location of the facility for which the application is submitted.	32.5.2 The name, mailing address, and physical location of the facility for which the application is submitted.	(2) Name, mailing address, and location of the facility for which the application is submitted.
(3) Up to four SIC codes which best reflect the principal products or services provided by the facility.	32.5.3 Up to four (4) SIC or NAICS codes which best reflect the principal products or services provided by the facility.	(3) Up to four SIC codes which best reflect the principal products or services provided by the facility.
(4) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.	32.5.4 The owner's and operator's (if different from owner) name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.	(4) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity.
(5) Whether the facility is located on Indian lands.		
(6) A listing of all permits or construction approvals received or applied for under any of the following programs:	32.5.5 A listing of all permits or construction approvals received or applied for under any of the following programs:	(5) A listing of all permits or construction approvals received or applied for under the UIC program.
(i) Hazardous Waste Management program under RCRA	32.5.5.1 Hazardous Waste Management program under RCRA.	
(ii) UIC program under SDWA.	32.5.5.2 UIC program under SDWA.	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(iii) NPDES program under CWA	32.5.5.3 NPDES program under CWA.	
(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.	32.5.5.4 Prevention of Significant Deterioration (PSD) program under the Clean Air Act.	
(v) Nonattainment program under the Clean Air Act.	32.5.5.5 Nonattainment program under the Clean Air Act.	
(vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.	32.5.5.6 National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.	
(vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.	32.5.5.7 Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.	
(viii) Dredge and fill permits under section 404 of CWA.	32.5.5.8 Dredge and fill permits under Section 404 of CWA.	
(ix) Other relevant environmental permits, including State permits.	32.5.5.9 Other relevant environmental permits, including State permits (including well permits).	
(7) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well	32.5.6 A scaled, color topographic map (or other map approved by DNREC if a topographic map is unavailable) extending one (1) mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge	(6) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
where fluids from the facility are injected underground; and those wells, springs, and other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within a quarter mile of the facility property boundary.	structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, and other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within a quarter (¼) mile of the facility property boundary.	where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
(8) A brief description of the nature of the business.	32.5.7 A brief description of the nature of the business.	(7) A brief description of the nature of the business.
<del>(9) For EPA-administered programs, the applicant shall identify and submit on a list with the permit application the names and addresses of all owners of record of land within one-quarter mile of the facility boundary. This requirement may be waived by the Regional Administrator where the site is located in a populous area and the Regional Administrator determines that the requirement would be impracticable.</del>		
(10) A plugging and abandonment plan that meets the requirements of Sec. 146.10 of this chapter and is acceptable to the Director.	32.5.8 A plugging and abandonment plan that meets the requirements of Section 63.0 and is acceptable to the Department.	
	32.5.9 A map showing the extent of the plume of contamination, even beyond the property boundary lines of injection property, for each	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	contaminant.	
(f) Recordkeeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under Sec. 144.31 for a period of at least 3 years from the date the application is signed.	32.6 Recordkeeping. Applicants shall keep for at least five (5) years from the date of submission all data used to complete permit applications and any supplemental information submitted in support of an application or written UIC approval.	(e) <u>Recordkeeping</u> . Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under §§122.4(d) and 122.28 for a period of at least 3 years from the date the application is signed.
<del>(g) Information Requirements for Class I Hazardous Waste Injection Wells Permits.</del> [note: text not showing here]		
	32.7 Other information, as specified on the UIC application form.	
<b>Sec. 144.32 Signatories to permit applications and reports.</b>	<b>Sec. 33.0 Signatories to permit applications and reports.</b>	<b>§122.6 Signatories to permit applications and reports.</b>
(a) Applications. All permit applications, <del>except those submitted for Class II wells (see paragraph (b) of this section)</del> , shall be signed as follows:	33.1 Applications. All permit applications shall be signed as follows:	(a) <u>Applications</u> . All permit applications shall be signed as follows:
(1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means; (i) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales	33.1.1 For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means; 33.1.1.1 A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or 33.1.1.2 The manager of	(1) For a corporation: by a principal executive officer of at least the level of vice-president;

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<p>or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.</p> <p>Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in Sec. 144.32(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Sec. 144.32(a)(1)(ii) rather than to specific individuals.</p>	<p>one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.</p>	
(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or	33.1.2 For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or	(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively, or
(3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for	33.1.3 For a municipality, State, Federal, or other public agency: by either a principal executive officer or other official who is authorized by statute, ordinance, regulation, or other applicable procedure to bind the governmental entity. For purposes of this section, a principal executive	(3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).	officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).	
(b) Reports. All reports required by permits, other information requested by the Director, <del>and all permit applications submitted for Class II wells under Sec. 144.31</del> shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:	33.2 Reports. All reports required by permits and other information requested by the Department in the course of evaluating a permit application shall be signed by a person described in Section 33.0, or by a duly authorized representative of that person. A person is a duly authorized representative only if:	(b) <u>Reports</u> . All reports required by permits and other information requested by the Secretary shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
(1) The authorization is made in writing by a person described in paragraph (a) of this section;	33.2.1 The authorization is made in writing by a person described in subsection 33.1;	(1) The authorization is made in writing by a person described in paragraph (a) of this section;
(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual	33.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be	(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
occupying a named position); and	either a named individual or any individual occupying a named position); and	occupying a named position); and
(3) The written authorization is submitted to the Director.	33.2.3 The written authorization is approved by the Department.	(3) The written authorization is submitted to the Secretary.
(c) Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.	33.3 Changes to authorization. If an authorization under Section 33.0 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section 33.0 must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.	(c) <u>Changes to authorization</u> . If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Secretary prior to or together with any reports, information or applications to be signed by an authorized representative.
(d) Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:  I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system,	33.4 Certification. Any person signing a document under subsection 33.1 or 33.2 shall make the following certification:  "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or	(d) <u>Certification</u> . Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:  "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that



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or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."	there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
	33.5 Certification by a Professional Engineer and Professional Geologist.	
	33.5.1 All applications for Class I injection wells and Class V injection wells that penetrate through a USDW shall be sealed and certified by a professional engineer or professional geologist (as applicable), in compliance with these regulations and the professional regulations of the State of Delaware.	
	33.5.2 The application, plans, and specifications, certification of construction completion reports, operation and maintenance manual, and other related documents shall be certified by a professional engineer or professional geologist, as applicable, registered in the State of Delaware and retained by the applicant for that purpose.	
	33.5.3 All applications for Class	

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	<p>I injection wells and Class V injection wells that penetrate through a USDW shall contain the following statement:</p> <p>I certify that the features of this injection point have been designed or examined by me and found to be in conformity with modern principles of injection of fluids and well design for the purpose described in this application. There is reasonable assurance, in my professional judgment, that the injection point, when properly maintained and operated, will discharge the fluid in compliance with all applicable statutes of the State of Delaware and the rules and regulations of the Department of Natural Resources and Environmental Control. It is agreed that the undersigned will furnish the applicant with a set of instructions for proper maintenance and operation of the injection point.</p>	
<b>Sec. 144.33 Area permits.</b>	<b>Sec. 34.0 Area permits.</b>	none
(a) The Director may issue a permit on an area basis, rather than for each well	All injection activities in Delaware require approval. No Area permits will	

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individually, provided that the permit is for injection wells:	be issued.	
(1) Described and identified by location in permit application(s) if they are existing wells, except that the Director may accept a single description of wells with substantially the same characteristics;		
(2) Within the same well field, facility site, reservoir, project, or similar unit in the same State;		
(3) Operated by a single owner or operator; and		
(4) Used to inject other than hazardous waste.		
(b) Area permits shall specify:		
(1) The area within which underground injections are authorized, and		
(2) The requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.		
(c) The area permit may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided:		
(1) The permittee notifies the Director at such time as the permit requires;		
(2) The additional well satisfies the criteria in paragraph (a) of this section and meets the requirements specified in the permit under paragraph (b) of this section; and		

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(3) The cumulative effects of drilling and operation of additional injection wells are considered by the Director during evaluation of the area permit application and are acceptable to the Director.		
(d) If the Director determines that any well constructed pursuant to paragraph (c) of this section does not satisfy any of the requirements of paragraphs (c) (1) and (2) of this section the Director may modify the permit under Sec. 144.39, terminate under Sec. 144.40, or take enforcement action. If the Director determines that cumulative effects are unacceptable, the permit may be modified under Sec. 144.39.		
<b>Sec. 144.34 Emergency permits.</b>	<b>Sec. 35.0 Emergency permits.</b>	<b>§122.30 Emergency permits.</b>
(a) Coverage. Notwithstanding any other provision of this part or part 124, the Director may temporarily permit a specific underground injection if:	35.1 Coverage. Notwithstanding any other provision of these Regulations, the Department may temporarily permit a specific underground injection if:	(a) Coverage. Notwithstanding any other provision of this Part or Part 124, the Secretary may temporarily permit a specific underground injection which has not otherwise been authorized by rule or permit if:
(1) An imminent and substantial endangerment to the health of persons will result unless a temporary emergency permit is granted; or	35.1.1 An imminent and substantial endangerment to the health of persons will result unless a temporary emergency permit is granted;	(1) An imminent and substantial endangerment to the health of persons will result unless a temporary emergency permit is granted.
<del>(2) A substantial and irretrievable loss of oil or gas resources will occur unless a temporary emergency permit is granted to a Class II well; and</del>		

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(i) Timely application for a permit could not practicably have been made; and	35.1.2 Timely application for a permit could not practicably have been made; and	
(ii) The injection will not result in the movement of fluids into underground sources of drinking water; or	35.1.3 The injection will not result in the movement of fluids into underground sources of drinking water;	
<del>(3) A substantial delay in production of oil or gas resources will occur unless a temporary emergency permit is granted to a new Class II well and the temporary authorization will not result in the movement of fluids into an underground source of drinking water.</del>		
(b) Requirements for issuance. (1) Any temporary permit under paragraph (a)(1) of this section shall be for no longer term than required to prevent the hazard.	35.2 Requirements for issuance.  35.2.1 Any temporary permit under subsection 35.1.1 shall be for no longer term than required to prevent the hazard.	(b) Requirements for issuance. (1) Any temporary permit under paragraph (a)(1) of this section shall be for no longer term than required to prevent the hazard.
(2) Any temporary permit under paragraph (a)(2) of this section shall be for no longer than 90 days, except that if a permit application has been submitted prior to the expiration of the 90-day period, the Director may extend the temporary permit until final action on the application.	35.2.2 Any temporary permit under subsection 35.1.2 shall be for no longer than 90 days, except that if a permit application has been submitted prior to the expiration of the 90 day period, the Department may extend the temporary permit until final action on the application.	(2) Notice of any temporary permit under this paragraph shall be published in accordance with §124.11 within 5 days of the issuance of the permit.
(3) Any temporary permit under paragraph		

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(a)(3) of this section shall be issued only after a complete permit application has been submitted and shall be effective until final action on the application.		
(4) Notice of any temporary permit under this paragraph shall be published in accordance with Sec. 124.11 <del>within 10 days of the issuance of the permit.</del>	35.2.4 Notice of any temporary permit under this Section shall be published in accordance with Section 10.0.	
(5) The temporary permit under this section may be either oral or written. If oral, it must be followed within 5 calendar days by a written temporary emergency permit.	35.2.5 The temporary permit under this Section may be either oral or written. If oral, it must be followed within five (5) calendar days by a written temporary emergency permit.	(3) The temporary permit under this section may be either oral or written. If oral, it must be followed within 5 calendar days by a written temporary emergency permit.
(6) The Director shall condition the temporary permit in any manner he or she determines is necessary to ensure that the injection will not result in the movement of fluids into an underground source of drinking water.	35.2.6 The Department shall condition the temporary permit in any manner determined to be necessary to ensure that the injection will not will not result in the movement of fluids into an underground source of drinking water.	(4) The Secretary shall condition the temporary permit in any manner he or she determines is necessary to ensure that the injection will not result in the movement of fluids into an underground source of drinking water.
<b>Sec. 144.35 Effect of a permit.</b>	<b>Sec. 36.0 Effect of a permit.</b>	<b>§122.13 Effect of a permit.</b>
(a) <del>Except for Class II and III wells,</del> compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Part C of the SDWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Sec. <del>See</del> 144.39 and 144.40.	36.1 A permit may be modified, revoked and reissued, or terminated during its term, for cause as set forth in Section 40.0 and 41.0. Compliance with a permit during its term constitutes compliance, for the purposes of enforcement, with Part C of the SWDA.	(a) Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Part C of SDWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in §§122.15 and 122.16.

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(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.	36.2 The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.	(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.
(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.	36.3 The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.	(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.
<b>Sec. 144.36 Duration of permits.</b>	<b>Sec. 37.0 Duration of permits.</b>	<b>§122.9 Duration of permits.</b>
(a) Permits for Class I and Class V wells shall be effective for a fixed term not to exceed 10 years. <del>UIC permits for Class II and III wells shall be issued for a period up to the operating life of the facility.</del> The Director shall review each issued <del>Class II or III well</del> UIC permit at least once every 5 years to determine whether it should be modified, revoked and reissued, terminated, or a minor modification made as provided in Sec. <del>See.</del> 144.39, 144.40, and 144.41.	37.1 Permits for Class I and Class V injection wells shall be effective for a fixed term not to exceed five (5) years. The Department may review each issued UIC permit prior to permit expiration to determine whether it should be modified, revoked and reissued, terminated, or a minor modification made as provided in Sections 40.0, 41.0, and 42.0.	(a) UIC permits for Class I and Class V wells shall be effective for a fixed term not to exceed 10 years.
(b) Except as provided in Sec. 144.37, the term of a permit shall not be extended by modification beyond the maximum duration specified in this section.	37.2 Except as provided in Section 38.0, the term of a permit shall not be extended by modification beyond the maximum duration of five (5) years.	(b) The term of a permit shall not be extended by modification beyond the maximum duration specified in this section.
(c) The Director may issue any permit for a duration that is less than the full allowable term under this section.	37.3 The Department may issue any permit under these Regulations for a duration that is less than five (5) years.	(c) The Secretary may issue any permit for a duration that is less than the full allowable term under this section.



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<b>Sec. 144.37 Continuation of expiring permits.</b>	<b>Sec. 38.0 Continuation of expiring permits.</b>	none
(a) <del>EPA permits. When EPA is the permit-issuing authority, the conditions of an expired permit continue in force under 5 U.S.C. 558(e) until the effective date of a new permit if:</del>	38.1 The conditions of an expired permit continue in force until the effective date of a new permit if:	
(1) The permittee has submitted a timely application which is a complete application for a new permit; and	38.1.1 The permittee has submitted a complete application within 180 days prior to expiration of the current permit; and	
(2) The Regional Administrator, through no fault of the permittee does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).	38.1.2 The Department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.	
(b) Effect. Permits continued under this section remain fully effective and enforceable.	38.2 Effect. Permits continued under this Section remain fully effective and enforceable.	
(c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the Regional Administrator may choose to do any or all of the following:	38.3 Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the Department may choose to do any or all of the following:	
(1) Initiate enforcement action based upon the permit which has been continued;	38.3.1 Initiate enforcement action based upon the permit which has been continued;	

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(2) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;	38.3.2 Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;	
(3) Issue a new permit under part 124 with appropriate conditions; or	38.3.3 Issue a new permit under Part 124 (Sections 3.0-19.0) with appropriate conditions; or	
(4) Take other actions authorized by these regulations.	38.3.4 Take other actions authorized by these regulations.	
(d) State continuation. <del>An EPA issued permit does not continue in force beyond its time expiration date under Federal law if at that time a State is the permitting authority.</del> A State authorized to administer the UIC program may continue either EPA or State-issued permits until the effective date of the new permits, if State law allows. Otherwise, the facility or activity is operating without a permit from the time of expiration of the old permit to the effective date of the State-issued new permit.	38.4 State continuation. The UIC program may continue permits until the effective date of the new permit.	
<b>Sec. 144.38 Transfer of permits.</b>	<b>Sec. 39.0 Transfer of permits.</b>	<b>§122.14 Transfer of permits.</b>
(a) Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee	39.1 Transfers by modification. Except as provided in subsection 39.2, a permit may be transferred by the	(a) <u>Transfers by modification.</u> Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee

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to a new owner or operator only if the permit has been modified or revoked and reissued (under Sec. 144.39(b)(2)), or a minor modification made (under Sec. 144.41(d)), to identify the new permittee and incorporate such other requirements as may be necessary under the Safe Drinking Water Act.	permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under Section 40.0), or a minor modification made (under Section 42.0), to identify the new permittee and incorporate such other requirements as may be necessary under the Safe Drinking Water Act.	to a new owner or operator only if the permit has been modified or revoked and reissued (under §122.15(b)(2)), or a minor modification made (under §122.17(d)), to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act.
(b) Automatic transfers. As an alternative to transfers under paragraph (a) of this section, any UIC permit for a well not injecting hazardous waste may be automatically transferred to a new permittee if:	39.2 Requested transfers. As an alternative to transfers under subsection 39.1, any UIC permit may be transferred to a new permittee if:	(b) <u>Automatic transfers</u> . As an alternative to transfers under paragraph (a) of this section, any UIC permit for a well not injecting hazardous waste may be automatically transferred to a new permittee if:
(1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date referred to in paragraph (b)(2) of this section;	39.2.1 The current permittee notifies the Department at least 30 days in advance of the proposed transfer date referred to in subsection 39.2.2;	(1) The current permittee notifies the Secretary at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;
(2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer or permit responsibility, coverage, and liability between them, and the notice demonstrates that the financial responsibility requirements of Sec. 144.52(a)(7) will be met by the new permittee; and	39.2.2 A written agreement is submitted to the Department, signed by all parties to the transfer, containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees, and the notice demonstrates that the financial responsibility requirements of subsection 44.1.7 will be met by the new permittee; and	(2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them and the notice demonstrates that the financial responsibility requirements of §122.32(g) will be met by the new permittee; and

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(3) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this paragraph may also be a minor modification under Sec. 144.41. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.	39.2.3 The Department notifies the existing permittee and the proposed new permittee of the Department's intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit. A modification under this Section may also be a minor modification under Section 42.0.	(3) The Secretary does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under §122.17. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.
<b>Sec. 144.39 Modification or revocation and reissuance of permits.</b>	<b>Sec. 40.0 Modification or revocation and reissuance of permits.</b>	<b>§122.15 Modification or revocation and reissuance of permits and §124.4 Modification, revocation and reissuance, or termination of permits.</b>
When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see <del>Sec. 144.51 of this chapter</del> ), receives a request for modification or revocation and reissuance under Sec. 124.5, or conducts a review of the permit file) he or she may	40.1 When the Department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance under Section 7.0, or conducts a review of the permit file) he	When the Secretary receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see §122.7), receives a request for modification or revocation and reissuance under §124.5, or conducts a review of the permit file) he or she may determine

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<p>determine whether or not one or more of the causes listed in paragraphs (a) and (b) of this section for modification or revocation and reissuance or both exist. If cause exists, the Director may modify or revoke and reissue the permit accordingly, <del>subject to the limitations of paragraph (c) of this section</del>, and may request an updated application if necessary. <del>When a permit is modified, only the conditions subject to modification are reopened.</del> If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. See Sec. 124.5(c)(2) of this chapter. <del>If cause does not exist under this section or Sec. 144.41 of this chapter, the Director shall not modify or revoke and reissue the permit.</del> If a permit modification satisfies the criteria in Sec. 144.41 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in part 124 must be followed.</p>	<p>or she may determine whether or not one or more of the causes listed in subsection 40.2 for modification or revocation and reissuance or both exist. If cause exists, the Department may modify or revoke and reissue the permit accordingly, and may request an updated application if necessary. If a permit is modified or revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If a permit modification satisfies the criteria in Section 42.0 for "minor modifications," the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in Part 124 (Sections 3.0-19.0) must be followed.</p>	<p>whether or not one or more of the causes listed in paragraphs (a) and (b) of this section for modification or revocation and reissuance or both exist. If cause exists, the Secretary may modify or revoke and reissue the permit accordingly, subject to the limitations of paragraph (c) of this section, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. See §1224.5(c). If cause does not exist under this section or §122.17, the Secretary shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in §122.17 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in Part 124 followed.</p>
<p>(a) <del>Causes for modification. The following are causes for modification. For Class I hazardous waste injection wells, Class II, or Class III wells the following may be causes for revocation and reissuance as well as modification; and for all other wells the following may be cause for revocation or reissuance as well as</del></p>	<p>40.2 Causes for modification. The following may be cause for revocation and/or reissuance as well as modification when the permittee requests or agrees.</p>	<p>(a) <u>Causes for modification.</u> The following are causes for modification, but not revocation and reissuance of permits.</p>



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modification when the permittee requests or agrees.		
(1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.	40.2.1 Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that differ from or are absent from the existing permit.	(1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which, occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
(2) Information. The Director has received information. Permits <del>other than for Class II and III wells</del> may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For UIC area permits (Sec. 144.33), this cause shall include any information indicating that cumulative effects on the environment are unacceptable.	40.2.2 Information. The Department has received information that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions based on standards in effect at the time of issuance.	(2) Information. The Secretary has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.
(3) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits <del>other than for Class I hazardous waste injection wells, Class II, or Class III wells</del> may be modified during their terms for this cause only as follows:	40.2.3 New regulations. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this reason as follows:	(3) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

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(i) For promulgation of amended standards or regulations, when:	40.2.3.1 For promulgation of new or amended standards or regulations, when	(i) For promulgation of amended standards or regulations, when:
(A) The permit condition requested to be modified was based on a promulgated part 146 regulation; and	40.2.3.1.1 The permit condition requested to be modified was based on a promulgated Part 146 (Sections 55.0-70.0) regulation; and	(A) The permit condition requested to be modified was based on a promulgated Part 146 regulation; and
(B) EPA has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based, and	40.2.3.1.2 The Department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based, and	(B) DNREC has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and
(C) A permittee requests modification in accordance with Sec. 124.5 within ninety (90) days after Federal Register notice of the action on which the request is based.	40.2.3.1.3 A permittee requests modification in accordance with Section 7.0 within 90 days after public notice of the action on which the request is based.	(C) A permittee requests modification in accordance with §124.4 within ninety (90) days after public notice of the action on which the request is based.
(ii) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations if the remand and stay concern that portion of the regulations on which the permit condition was based and a request is filed by the permittee in accordance with Sec. 124.5 within ninety (90) days of judicial remand.	40.2.3.2 For judicial decisions, a court of competent jurisdiction has remanded and stayed DNREC-promulgated regulations if the remand and stay concerned that portion of the regulations on which the permit condition was based and a request is filed by the permittee in accordance with Section 7.0 within 90 days of judicial remand.	(ii) For judicial decisions, a court of competent jurisdiction has remanded and stayed DNREC promulgated regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based and a request is filed by the permittee in accordance with §124.4 within ninety (90) days of judicial remand.
(4) Compliance schedules. The Director	40.2.4 Compliance schedules. The	(4) Compliance schedules. The Secretary



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determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. See also Sec. 144.41(c) (minor modifications).	Department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.	determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.
(b) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:	40.3 Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:	(b) <u>Causes for modification or revocation and reissuance</u> . The following are causes to modify or, alternatively, revoke and reissue a permit:
(1) Cause exists for termination under Sec. 144.40, and the Director determines that modification or revocation and reissuance is appropriate.	40.3.1 Cause exists for termination under Section 41.0, and the Department determines that modification or revocation and reissuance is appropriate.	(1) Cause exists for termination under §122.16 and the Secretary determines that modification or revocation and reissuance is appropriate.
(2) The Director has received notification (as required in the permit, see Sec. 144.41(d)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Sec. 144.38(b)) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.	40.3.2 The Department has received notification of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.	(2) The Secretary has received notification (as required in the permit, see §122.17) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (§122.14(b)) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

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(3) A determination that the waste being injected is a hazardous waste as defined in Sec. 261.3 either because the definition has been revised, or because a previous determination has been changed.	40.3.3 A determination that the waste being injected is a hazardous waste as defined in 40 CFR 261.3 either because the definition has been revised, or because a previous determination has been changed.	
(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.	40.4 Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.	(c) <u>Facility siting</u> . Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.
<b>Sec. 144.40 Termination of permits.</b>	<b>Sec. 41.0 Termination of permits.</b>	<b>§122.16 Termination of permits.</b>
(a) The Director may terminate a permit during its term, or deny a permit renewal application for the following causes:	41.1 The Department may terminate a permit during its term, or deny a permit renewal application for the following causes:	(a) The Secretary may terminate a permit during its term or deny a permit renewal application for the following causes:
(1) Noncompliance by the permittee with any condition of the permit;	41.1.1 Noncompliance by the permittee with any condition of the permit;	(1) Noncompliance by the permittee with any condition of the permit;
(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any	41.1.2 The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's	(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any

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relevant facts at any time; or	misrepresentation of any relevant facts at any time; or	relevant facts at any time; or
(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;	41.1.3 A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.	(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
(b) The Director shall follow the applicable procedures in part 124 in terminating any permit under this section.	41.2 The Department shall follow the applicable procedures in Part 124 (Sections 3.0-19.0) in terminating any permit under this Section.	
<b>Sec. 144.41 Minor modifications of permits.</b>	<b>Sec. 42.0 Minor modifications of permits.</b>	<b>§122.17 Minor modifications of permits</b>
Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with part 124 draft permit and public notice as required in Sec. 144.39. Minor modifications may only:	42.1 The Department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of Part 124 (Sections 3.0-19.0). Any permit modification not processed as a minor modification under this Section must be made for cause and with Part 124 draft permit and public notice as required in Section 40.0 Minor modifications may only:	Upon the consent of the permittee, the Secretary may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of Part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with Part 124 draft permit and public notice as required in §122.15. Minor modifications may only:
(a) Correct typographical errors;	42.2 Correct typographical errors;	(a) Correct typographical errors,
(b) Require more frequent monitoring or	42.3 Require increased monitoring or	(b) Require more frequent monitoring or

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reporting by the permittee;	reporting by the permittee;	reporting by the permittee;
(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or	42.4 Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;	(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
(d) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.	42.5 Allow for a change in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to and approved in writing by the Department;	(d) Allow for a change in ownership or operational control of a facility where the Secretary determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Secretary.
(e) Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Director, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.	42.6 Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Department, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification;	(e)(1) Changes quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Secretary, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.
(f) Change construction requirements	42.7 Change construction	(2) Change construction requirements

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approved by the Director pursuant to Sec. 144.52(a)(1) (establishing UIC permit conditions), provided that any such alteration shall comply with the requirements of this part and part 146.	requirements approved by the Department pursuant to Section 44.0, provided that any such alteration shall comply with the requirements of this Part and Part 146 (Sections 55.0-70.0); or	approved by the Secretary pursuant to §122.32(a) (establishing UIC permit conditions), provided that any such alteration shall comply with the requirements of this Part and Part 146.
(g) Amend a plugging and abandonment plan which has been updated under Sec. 144.52(a)(6).	42.8 Amend a plugging and abandonment plan which has been updated under subsection 44.1.6.	(3) Amend a plugging and abandonment plan which has been updated under §122.31(e).
<b>Sec. 144.51 Conditions applicable to all permits.</b>	<b>43.0 Conditions applicable to all Permits and Major Class V Injection Wells.</b>	<b>§122.7 Conditions applicable to all permits</b> [see also §122.31 Additional conditions applicable to all UIC permits.]
The following conditions apply to all UIC permits. All conditions applicable to all permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved State regulations) must be given in the permit.	43.1 The following conditions apply to all UIC permits and Major Class V Injection Wells. All conditions applicable to all permits and Major Class V Injection Wells shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the other applicable State regulations) may be given in the permit or Rule Authorization letter.	The following conditions apply to all UIC permits. For additional conditions applicable to all permits for the UIC program, see section 122.31. All conditions applicable to all permits, and all additional conditions applicable to all permits for the program shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.
(a) Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Safe Drinking Water Act and is grounds for enforcement action; for	43.2 Duty to comply. The permittee must comply with all conditions of a permit. Any permit noncompliance constitutes a violation of 7 Del.C. §6003 and any amending or	(a) <u>Duty to comply</u> . The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the appropriate Act and is grounds for enforcement action; for permit



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permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application; except that the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under Sec. 144.34.	superseding legislation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.	termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
(b) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.	43.3 Duty to reapply. If the permittee wishes to continue an activity regulated by a permit after the expiration date of a permit, the permittee must submit a complete application for a new permit at least 180 days prior to the expiration of the current permit, unless otherwise stated in the permit.	(b) <u>Duty to reapply</u> . If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.
(c) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.	43.4 Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of a permit.	(c) <u>Duty to halt or reduce activity</u> . It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
(d) Duty to mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.	43.5 Duty to mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with a permit.	(d) <u>Duty to mitigate</u> . The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

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(e) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.	43.6 Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of a permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.	(e) <u>Proper operation and maintenance</u> . The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operator of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.
(f) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.	43.7 Permit actions. A permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes, or anticipated noncompliance, does not stay any permit condition.	(f) <u>Permit actions</u> . This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
(g) Property rights. This permit does not convey any property rights of any sort, or	43.8 Property rights. A permit does not convey any property rights of any	(g) <u>Property rights</u> . This permit does not convey any property rights of any sort, or



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any exclusive privilege.	sort, or any exclusive privilege.	any exclusive privilege.
(h) Duty to provide information. The permittee shall furnish to the Director, within a time specified, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.	43.9 Duty to provide information. The permittee shall furnish to the Department, within a time specified, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept under the terms of the permit.	(h) <u>Duty to provide information</u> . The permittee shall furnish to the Secretary, within a reasonable time, any information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Secretary, upon request, copies of records required to be kept by this permit.
(i) Inspection and entry. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:	43.10 Inspection and entry. As authorized by 7 <b>Del.C.</b> §6024, the permittee shall allow the Department, or an authorized representative, to:	(i) <u>Inspection and entry</u> . The permittee shall allow the Secretary, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;	43.10.1 Enter upon the permittee's property where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit;	(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;	43.10.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of a permit;	(2) Have access to any copy, at reasonable times, any records that must be kept under the conditions of this permit;
(3) Inspect at reasonable times any	43.10.3 Inspect any facilities,	(3) Inspect at reasonable times any

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facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and	equipment (including monitoring and control equipment), practices, or operations regulated or required under a permit; and	facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the SDWA, any substances or parameters at any location.	43.10.4 Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the SDWA, any substances or parameters at any location.	(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate Act, any substances or parameters at any location.
(j) Monitoring and records.	43.11 Monitoring and records.	(j) <u>Monitoring and records.</u>
(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.	43.11.1 Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.	(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
(2) The permittee shall retain records of all monitoring information, including the following:	43.11.2 The permittee shall retain records of all monitoring information, including the following:	(2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Secretary at any time.
(i) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation,	43.11.2.1 Calibration and maintenance records and all original strip chart recordings for continuous	(see above)

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copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time; and	monitoring instrumentation, copies of all reports required by a permit, and records of all data used to complete an application for a permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by the Department at any time; and	
(ii) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Sec. 144.52(a)(6), or under part 146 subpart G as appropriate. The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period. <del>For EPA-administered programs, the owner or operator shall continue to retain the records after the three-year retention period unless he delivers the records to the Regional Administrator or obtains written approval from the Regional Administrator to discard the records.</del>	43.11.2.2 The nature and composition of all injected fluids until three (3) years after the completion of any plugging and abandonment. The Department may require the owner or operator to deliver the records to the Department at the conclusion of the retention period.	
(3) Records of monitoring information shall include:	43.11.3 Records of monitoring information shall include:	(3) Records of monitoring information shall include:
(i) The date, exact place, and time of sampling or measurements;	43.11.3.1 The date, exact physical location, sampling method and time of sampling or measurements;	(i) The date, exact place, and time of sampling or measurements;

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(ii) The individual(s) who performed the sampling or measurements;	43.11.3.2 The names of the individual(s) who performed the sampling or measurements;	(ii) The individual(s) who performed the sampling or measurements;
(iii) The date(s) analyses were performed;	43.11.3.3 The date(s) analyses were performed;	(iii) The date(s) analyses were performed;
(iv) The individual(s) who performed the analyses;	43.11.3.4 The names of the individual(s) who performed the analyses;	(iv) The individual(s) who performed the analyses;
(v) The analytical techniques or methods used; and	43.11.3.5 The analytical techniques or methods used; and	(v) The analytical techniques or methods used; and
(vi) The results of such analyses.	43.11.3.6 The results of such analyses.	(vi) The results of such analyses.
(k) Signatory requirement. All applications, reports, or information submitted to the Administrator shall be signed and certified. (See Sec. 144.32.)	43.12 Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified pursuant to Section 33.0.	(k) <u>Signatory requirement</u> . All applications, reports, or information submitted to the Secretary shall be signed and certified. (See §122.6)
(l) Reporting requirements. (1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.	43.13 Reporting requirements. 43.13.1 Planned changes. The permittee shall give advance notice to the Department of any planned physical alterations or additions to the permitted facility that may affect any permitted or authorized UIC activity.	(1) Reporting requirements. Planned changes. The permittee shall given notice to the Secretary as soon as possible of any planned physical alterations or additions to the permitted facility.
(2) Anticipated noncompliance. The	43.13.2 Anticipated	(2) Anticipated noncompliance. The

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permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.	noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.	permittee shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
(3) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Safe Drinking Water Act. (See Sec. 144.38; in some cases, modification or revocation and reissuance is mandatory.)	43.13.3 Transfers. A permit is not transferable to any person except after notice to and written approval from the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under Section 39.0.	(3) Transfers. This permit is not transferable to any person except after notice to the Secretary. The Secretary may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See §122.14)
(4) Monitoring reports. Monitoring results shall be reported at the intervals specified <del>elsewhere</del> in this permit.	43.13.4 Monitoring reports. Monitoring results shall be reported at the intervals specified in a permit.	(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 30 days following each schedule date.	43.13.5 Compliance schedules. Progress reports or reports of compliance or noncompliance with interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each scheduled date.	(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
(6) Twenty-four hour reporting. The	43.13.6 Twenty-four (24) hour	(6) Twenty-four hour reporting. The



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<p>permittee shall report any noncompliance which may endanger health or the environment, including:</p>	<p>reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances by calling DNREC's Enforcement Section's 24-hour Reporting Line at (800) 662-8802. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a contact name and phone number; description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The submitted report shall also include the following, as a minimum:</p>	<p>permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.</p>
<p>(i) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW; or</p>	<p>43.13.6.1 Any monitoring or other information which indicates that any contaminant may pose a threat of contamination to an underground source of drinking water; or</p>	



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(ii) Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs.	43.13.6.2 Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between the underground sources of drinking water.	
Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.		(see above)
(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.	43.13.7 Other noncompliance. The permittee shall report all instances of noncompliance not reported under subsection 43.13, at the time monitoring reports are submitted. The reports shall contain the information listed in subsection 43.13.	(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.
(8) Other information. Where the permittee	43.13.8 Other information.	(8) Other information. Where the permittee

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becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.	Where the permittee becomes aware that he/she failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, the permittee shall promptly submit such facts or information.	becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Secretary, it shall promptly submit such facts or information.
	43.13.9 Noncompliance notifications shall be submitted to the GWDS as follows: DNREC GWDS, 89 Kings Highway, Dover, DE 19901.	
(m) Requirements prior to commencing injection. <del>Except for all new wells authorized by an area permit under Sec. 144.33(e),</del> a new injection well may not commence injection until construction is complete, and	43.14 Requirements prior to commencing injection. A new injection well may not commence injection until construction is complete, and	
(1) The permittee has submitted notice of completion of construction to the Director; and	43.14.1 The permittee has submitted notice of completion of construction to the Department; and	
(2)(i) The Director has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or	43.14.2 The Department has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit.	
(ii) The permittee has not received notice from the Director of his or her intent to inspect or otherwise review the new		

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injection well within 13 days of the date of the notice in paragraph (m)(1) of this section, in which case prior inspection or review is waived and the permittee may commence injection. The Director shall include in his notice a reasonable time period in which he shall inspect the well.		
(n) The permittee shall notify the Director at such times as the permit requires before conversion or abandonment of the well or in the case of area permits before closure of the project.	43.15 The permittee shall notify the Department at such times as the permit or these regulations require before conversion or abandonment of the well.	
(o) A Class I, <del>II or III</del> permit shall include and a Class V permit may include, conditions which meet the applicable requirements of Sec. 146.10 of this chapter to insure that plugging and abandonment of the well will not allow the movement of fluids into or between USDWs. Where the plan meets the requirements of Sec. 146.10 of this chapter, the Director shall incorporate it into the permit as a permit condition. Where the Director's review of an application indicates that the permittee's plan is inadequate, the Director may require the applicant to revise the plan, prescribe conditions meeting the requirements of this paragraph, or deny the permit. For purposes of this paragraph, temporary or intermittent cessation of injection operations is not abandonment.	43.16 All Class I permits and Major Class V permits (such as a project which discharges fluid through an underground source of drinking water) shall include conditions which meet the applicable requirements of Section 63.0 of these Regulations and the State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> to ensure that plugging and abandonment of the well will not allow the movement of fluids into or between USDWs. Where the Department's review of an application indicates that the permittee's plan is inadequate, the Department may require the applicant to revise the plan, prescribe conditions meeting the requirements of this Section, or deny the permit. For purposes of this Section, temporary or	<b>§122.32 Establishing UIC permit conditions</b> (e) Plugging and abandonment. Any Class I permit shall include, and any Class V permit may include, conditions to ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another. Any applicant for a UIC permit shall be required to submit a plan for plugging and abandonment. Where the plan meets the requirements of this paragraph, the Secretary shall incorporate it into the permit as a condition. Where the Secretary's review of an application indicates that the permittee's plan is inadequate, the Secretary shall require the applicant to revise the plan, prescribe

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	intermittent cessation of injection operations is not abandonment.	conditions meeting the requirements of this paragraph, or deny the application. For purposes of this paragraph, temporary intermittent cessation of injection operations is not abandonment.
(p) <del>Plugging and abandonment report. For EPA-administered programs, within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator shall submit a report to the Regional Administrator. If the quarterly report is due less than 15 days before completion of plugging, then the report shall be submitted within 60 days. The report shall be certified as accurate by the person who performed the plugging operation. Such report shall consist of either:</del>	43.17 Plugging and abandonment report. The report shall be certified as accurate by the person who performed the plugging operation, in accordance with the State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> and these Regulations.	
<del>(1) A statement that the well was plugged in accordance with the plan previously submitted to the Regional Administrator; or</del>		
<del>(2) Where actual plugging differed from the plan previously submitted, and updated version of the plan on the form supplied by the regional administrator, specifying the differences.</del>		
(q) Duty to establish and maintain mechanical integrity. (1) The owner or operator of a Class I, <del>II or III</del> well permitted under this part shall establish prior to commencing injection or on a	43.18 Duty to establish and maintain mechanical integrity. 43.18.1 The owner or operator of a Class I injection well shall establish mechanical integrity prior to	

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<p>schedule determined by the Director, and thereafter maintain mechanical integrity as defined in Sec. 146.8 of this chapter. <del>For EPA-administered programs,</del> the Regional Administrator may require by written notice that the owner or operator comply with a schedule describing when mechanical integrity demonstrations shall be made.</p>	<p>commencing injection or on a schedule determined by the Department, and thereafter maintain mechanical integrity as defined in Section 61.0. The Department may require by written notice that the owner or operator comply with a schedule describing when mechanical integrity demonstrations shall be made.</p>	
<p>(2) When the Director determines that a Class I, <del>H,</del> <del>or</del> <del>III</del> well lacks mechanical integrity pursuant to Sec. 146.8 of this chapter, he shall give written notice of his determination to the owner or operator. Unless the Director requires immediate cessation, the owner or operator shall cease injection into the well within 48 hours of receipt of the Director's determination. The Director may allow plugging of the well pursuant to the requirements of Sec. 146.10 of this chapter or require the permittee to perform such additional construction, operation, monitoring, reporting and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Director that the owner or operator has demonstrated mechanical integrity pursuant to Sec. 146.8 of this chapter.</p>	<p>43.18.2 When the Department determines that a Class I injection well lacks mechanical integrity pursuant to Section 61.0, the Department shall give written notice of the Department's determination to the owner or operator. Unless the Department requires immediate cessation, the owner or operator shall cease injection into the well within 48 hours of receipt of the Department's determination. The Department may allow plugging of the well pursuant to the requirements of Section 63.0 or require the permittee to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Department that the owner or operator</p>	

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	has demonstrated mechanical integrity pursuant to Section 61.0.	
(3) The Director may allow the owner or operator of a well which lacks mechanical integrity pursuant to Sec. 146.8(a)(1) of this chapter to continue or resume injection, if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.		
<b>Sec. 144.52 Establishing permit conditions.</b>	<b>Sec. 44.0 Establishing permit conditions.</b>	<b>§122.8 Establishing permit conditions.</b> [see also §122.32 Establishing UIC permit conditions.]
(a) In addition to conditions required in Sec. 144.51, the Director shall establish conditions, as required on a case-by-case basis under Sec. 144.36 (duration of permits), Sec. 144.53(a) (schedules of compliance), Sec. 144.54 (monitoring), <del>and for EPA permits only Sec. 144.53(b) (alternate schedules of compliance), and Sec. 144.4 (considerations under Federal law). Permits for owners or operators of hazardous waste injection wells shall include conditions meeting the requirements of Sec. 144.14 (requirements for wells injecting hazardous waste); Sec. 144.52 (a)(7) and (a)(9), and subpart G of part 146.</del> Permits for other wells shall contain the following requirements, when applicable.	<b>44.1</b> In addition to permit conditions required in Section 43.0 the Department may establish permit conditions as required on a case-by-case basis under Sections 44.0, 45.0, and 46.0. Permits for other wells shall contain the following requirements, when applicable.	In addition to conditions required in all permits for the UIC program (§122.31), the Secretary shall establish conditions in permits for the program, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the appropriate Act and regulations.



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(1) Construction requirements as set forth in part 146. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements (see Sec. 144.11). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Administrator as minor modifications (Sec. 144.41). No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Director.	44.1.1 Construction requirements as set forth in Part 146 (Sections 55.0-70.0). Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. No construction may commence until a permit has been issued containing construction requirements (see Section 23.0). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Department as minor modifications (Section 42.0). No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Department.	<b>§122.32 Establishing UIC permit conditions</b> (a) Construction requirements as set forth in Part 146. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. No construction may commence until a permit has been issued containing construction requirements (see §122.23). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Director as minor modifications (§122.17). No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Director.
(2) Corrective action as set forth in Sec. Sec. 144.55 and 146.7	44.1.2 Corrective action as set forth in Section 47.0.	(b) Corrective action as set forth in §122.34 and §146.7.
(3) Operation requirements as set forth in <del>40 CFR</del> part 146; the permit shall establish any maximum injection volumes and/or pressures necessary to assure that fractures are not initiated in the confining zone, that	44.1.3 Operation requirements as set forth in Part 146 (Sections 55.0-70.0).  44.1.4 The permit shall establish any maximum injection volumes and	(c) Operation requirements as set forth in Part 146; the permit shall establish any maximum injection volumes and/or pressures necessary to assure that fractures are not initiated in the confining zone, that

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injected fluids do not migrate into any underground source of drinking water, that formation fluids are not displaced into any underground source of drinking water, and to assure compliance with the part 146 operating requirements.	pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any underground source of drinking water, that formation fluids are not displaced into any underground source of drinking water, and to assure compliance with the Part 146 (Sections 55.0-70.0) operating requirements.	injected fluids do not migrate into any underground source of drinking water, that formation fluids are not displaced into any underground source of drinking water, and to assure compliance with the Part 146 operating requirements.
<del>(4) Requirements for wells managing hazardous waste, as set forth in Sec. 144.14.</del>		
(5) Monitoring and reporting requirements as set forth in <del>40 CFR</del> part 146. The permittee shall be required to identify types of tests and methods used to generate the monitoring data. <del>For EPA administered programs, monitoring of the nature of injected fluids shall comply with applicable analytical methods cited and described in table I of 40 CFR 136.3 or in appendix III of 40 CFR part 261 or in certain circumstances by other methods that have been approved by the Regional Administrator.</del>	44.1.5 Monitoring and reporting requirements as set forth in Part 146 (Sections 55.0-70.0). The permittee shall be required to identify types of tests and methods used to generate the monitoring data.	(d) Monitoring and reporting requirements as set forth in Part 146. The permittee shall be required to identify types of tests and methods used to generate the monitoring data.
(6) After a cessation of operations of two years the owner or operator shall plug and abandon the well in accordance with the plan unless he:	44.1.6 After a cessation of operations of six (6) months, the Department may require the owner or operator to plug and abandon the well.	
<del>(i) Provides notice to the Regional</del>		

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Administrator;		
<del>(ii) Describes actions or procedures, satisfactory to the Regional Administrator, that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless waived by the Regional Administrator.</del>		
(7) Financial responsibility. (i) The permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Director until:	44.1.7 Financial responsibility. 44.1.7.1 The permittee, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Department until:	<b>§122.32 Establishing UIC permit conditions</b> (f) Financial responsibility. The permit shall require the permittee to maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Secretary. The permittee must show evidence of financial responsibility to the Secretary by submission of surety bond, or other adequate assurance, such as financial statements or other materials acceptable to the Secretary.
(A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to Sec. Sec. 144.51(o) and 146.10 of this chapter, and submitted a plugging and abandonment report pursuant to Sec. 144.51(p); or	44.1.7.1.1 The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to Section 63.0, and submitted a plugging and abandonment report pursuant to Section 63.0;	

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(B) The well has been converted in compliance with the requirements of Sec. 144.51(n); or	44.1.7.1.2 The well has been converted in compliance with the requirements of the DNREC's Water Supply Section; or	
(C) The transferor of a permit has received notice from the Director that the owner or operator receiving transfer of the permit, the new permittee, has demonstrated financial responsibility for the well.	44.1.7.1.3 The transferor of a permit has received notice from the Department that the owner or operator receiving transfer of the permit, and the new permittee, has demonstrated financial responsibility for the well.	
(ii) The permittee shall show evidence of such financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as a financial statement or other materials acceptable to the Director. <del>For EPA administered programs, the Regional Administrator may on a periodic basis require the holder of a lifetime permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility, if necessary. The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of subpart F of this part.</del>	44.1.7.2 The permittee shall demonstrate financial responsibility to the Department by the submission of a surety bond, or other adequate assurance, such as a financial statement or other materials acceptable to the Department.	
(8) Mechanical integrity. A permit for any Class I, <del>II or III</del> well or injection project which lacks mechanical integrity shall	44.1.8 Mechanical integrity. A permit for any Class I well or injection project which lacks mechanical integrity shall	(g) Mechanical integrity. A permit for any Class I well or injection project which lacks mechanical integrity shall include,

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include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Director under Sec. 146.08 that the well has mechanical integrity.	include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Department under Section 61.0 that the well has mechanical integrity.	and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Secretary under §146.08 that the well has mechanical integrity.
(9) Additional conditions. The Director shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into underground sources of drinking water.	44.1.9 Additional conditions. The Department may impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into underground sources of drinking water.	(h) Additional conditions. The Secretary shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into underground sources of drinking water.
(b)(1) In addition to conditions required in all permits the Director shall establish conditions in permits as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the SDWA and parts 144, 145, 146 and 124.	44.2 Additional Permit Requirements. 44.2.1 In addition to conditions required in all permits the Department shall establish conditions in permits as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of 7 Del.C. §6003; these Regulations; and SDWA and Parts 144, 145, 146 and 124.	
(2) For a State issued permit, an applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of the permit. <del>For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) which takes effect prior to the issuance of the permit. Section</del>	44.2.2 When a permit is reopened at the discretion of the Department pursuant to Section 14.0 of these Regulations, an applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in Section 40.0. An applicable requirement is a State	

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124.14 (reopening of comment period) provides a means for reopening <del>EPA</del> permit proceedings at the discretion of the Director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For State <del>and EPA</del> administered programs, an applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in Sec. 144.39.	statutory or regulatory requirement which takes effect prior to final administrative disposition of the permit.	
(3) New or reissued permits, and to the extent allowed under Sec. 144.39 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in Sec. 144.52.	44.2.3 New or reissued permits, and to the extent allowed under Section 40.0 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this section.	
(c) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.	44.3 Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements shall be given in the permit.	
	44.4 All owners/operators are required to comply with all permit conditions. Any disputes or discrepancies regarding permit	



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	conditions must be resolved prior to initiation of injection activities. Such resolution may result in the issuance of a new permit.	
<b>Sec. 144.53 Schedule of compliance.</b>	<b>Sec. 45.0 Schedule of compliance.</b>	<b>§122.10 Schedules of compliance.</b>
(a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the SDWA and parts 144, 145, 146, and 124.	45.1 General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the SDWA and these Regulations.	(a) <u>General</u> . The permit may, when appropriate, specify a schedule of compliance leading to compliance with the appropriate Act and regulations.
(1) Time for compliance. Any schedules of compliance shall require compliance as soon as possible, and in no case later than 3 years after the effective date of the permit.	45.1.1 Time for compliance. Any schedules of compliance shall require compliance as soon as possible, and in no case later than one (1) year after the effective date of the permit.	(1) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible. It shall be no later than 3 years after the effective date of the permit.
(2) Interim dates. Except as provided in paragraph (b)(1)(ii) of this section, if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.	45.1.2 Interim dates. If a permit establishes a schedule of compliance which exceeds three (3) months from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.	(2) Interim dates. Except as provided in paragraph (b)(1)(ii) of this section, if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement. The time between interim dates shall not exceed 1 year.
(i) The time between interim dates shall not exceed 1 year.	45.1.2.1 The time between interim dates shall not exceed three (3) months.	(see above)
(ii) If the time necessary for completion of any interim requirement is more than 1 year and is not readily divisible into stages for completion, the permit shall specify	45.1.2.2 If the time necessary for completion of any interim requirement is more than three (3) months and is not readily divisible into stages for	

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interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.	completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.	
(3) Reporting. The permit shall be written to require that if paragraph (a)(1) of this section is applicable, progress reports be submitted no later than 30 days following each interim date and the final date of compliance.	45.1.3 Reporting. The permit shall be written to require that if subsection 45.1.1 is applicable, progress reports must be submitted no later than 30 days following each interim date and the final date of compliance.	(3) Reporting. A UIC permit shall be written to require that if paragraph (a)(1) of this section is applicable, progress reports be submitted no later than 30 days following each interim date and the final date of compliance.
(b) Alternative schedules of compliance. A permit applicant or permittee may cease conducting regulated activities (by plugging and abandonment) rather than continue to operate and meet permit requirements as follows:	45.2 Alternative schedules of compliance. A permit applicant or permittee may cease conducting regulated activities (by plugging and abandonment) rather than continue to operate and meet permit requirements as follows:	(b) <u>Alternative schedules of compliance.</u> A UIC permit applicant or permittee may cease conducting regulated activities (by plugging and abandonment for UIC) rather than continue to operate and meet permit requirements as follows:
(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:	45.2.1 If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:	(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:
(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or	45.2.1.1 The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or	(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or
(ii) The permittee shall cease conducting	45.2.1.2 The permittee shall	(ii) The permittee shall cease conducting

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permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.	cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.	permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.	45.2.2 If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements..	(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline.
(3) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:	45.2.3 If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two (2) schedules as follows:	(3) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:
(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;	45.2.3.1 Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities.	(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
(ii) One schedule shall lead to timely	45.2.3.2 One schedule shall lead	(ii) One schedule shall lead to timely

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compliance with applicable requirements;	to timely compliance with applicable requirements.	compliance with applicable requirements no later than the statutory deadline;
(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;	45.2.3.3 The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements.	(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline.
(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)(3)(i) of this section it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.	45.2.3.4 Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under subsection 45.2.3.1, it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.	(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)(3)(i) of this section it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.
(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as a resolution of the board of directors of a corporation.	45.2.4 The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation.	(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Secretary, such as a resolution of the board of directors of a corporation.
	45.3 The Department may extend the compliance deadline for specific wells for up to one (1) year if the most	

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	efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology.	
<b>Sec. 144.54 Requirements for recording and reporting of monitoring results.</b>	<b>Sec. 46.0 Requirements for recording and reporting of monitoring results.</b>	<b>§122.11 Requirements for recording and reporting of monitoring results.</b>
All permits shall specify:	46.1 All permits shall specify:	All permits shall specify:
(a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);	46.1.1 Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);	(a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);
(b) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including when appropriate, continuous monitoring;	46.1.2 Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);	(b) Required monitoring including type, intervals, and frequency sufficient to data which are representative of the monitored activity including, when appropriate, continuous monitoring;
(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in part 146. Reporting shall be no less frequent than specified in the above regulations.	46.1.3 Applicable reporting requirements based upon the impact of the regulated activity and as specified in Part 146 (Sections 55.0-70.0). Reporting shall be no less frequent than specified in these regulations.	(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in Part 146. Reporting shall be no less frequent than specified in the above regulations.
	46.2 Monitoring Reporting	



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	<p>Unless otherwise specified in the permit, signed reports/forms and field data shall be submitted to the Department at the following address:</p> <p>Delaware DNREC Groundwater Discharges Section/UIC Program 89 Kings Highway Dover, DE 19901</p>	
<b>Sec. 144.55 Corrective action</b>	<b>Sec. 47.0 Corrective action</b>	<b>§122.34 Corrective action</b>
<p>(a) Coverage. Applicants for Class I, <del>II, (other than existing), or III</del> injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone, <del>or in the case of Class II wells operating over the fracture pressure of the injection formation</del>, all known wells within the area of review penetrating formations affected by the increase in pressure. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water ("corrective action"). Where the plan is adequate, the Director shall incorporate it into the permit as a condition. Where the Director's review of an application indicates that the</p>	<p>47.1 Coverage. Applicants for Class I injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone, and all known wells within the area of review penetrating formations affected by the increase in pressure. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water (corrective action plan). Where the plan is adequate, the Department shall incorporate it into the permit as a condition. Where the Department's review of an application indicates that the permittee's plan is inadequate</p>	<p>(a) Coverage. Applicants for Class I injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water ("corrective action"). Where the plan is adequate, the Secretary shall incorporate it into the permit as a condition. Where the Secretary's review of an application indicates that the permittee's plan is inadequate (based on the factors in §146.07), the Secretary shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under paragraph (b) of this</p>



Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
<p>permittee's plan is inadequate (based on the factors in Sec. 146.07), the Director shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under paragraph (b) of this section, or deny the application. <del>The Director may disregard the provisions of Sec. 146.06 (Area of Review) and Sec. 146.07 (Corrective Action) when reviewing an application to permit an existing Class II well.</del></p>	<p>(based on the factors in Section 60.0), the Department shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under subsection 47.2, or deny the application.</p>	<p>section, or deny the application.</p>
<p>(b) Requirements--(1) Existing injection wells. Any permit issued for an existing injection well <del>(other than Class II)</del> requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under paragraph (a) of this section to be completed as soon as possible.</p>	<p>47.2 Requirements:</p> <p>47.2.1 Existing injection wells. Any permit issued for an existing injection well requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under subsection 47.1 to be completed as soon as possible.</p>	
<p>(2) New injection wells. No owner or operator of a new injection well may begin injection until all required corrective action has been taken.</p>	<p>47.2.2 New injection wells. No owner or operator of a new injection well may begin injection until all required corrective action has been taken.</p>	<p>(2) New injection wells. No permit for a new injection well may authorize injection until all required corrective action has been taken.</p>
<p>(3) Injection pressure limitation. The Director may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not exceed hydrostatic pressure at the site of</p>	<p>47.2.3 Injection pressure limitation. The Department may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not exceed</p>	<p>(3) Injection pressure limitation. The Secretary may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not exceed hydrostatic pressure at the</p>

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.	hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy a corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.	site of any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.
<del>(4) Class III wells only. When setting corrective action requirements the Director shall consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made that corrective action is not necessary based on the determinations above, the monitoring program required in Sec. 146.33(b) shall be designed to verify the validity of such determinations.</del>		
<del>Subpart F—Financial Responsibility: Class I Hazardous Waste Injection Wells [text not shown here]</del>		
<b>Sec. 144.79 General.</b>	<b>Sec. 48.0 General.</b>	
Source: 64 FR 68566, Dec. 7, 1999, unless otherwise noted.		
This subpart tells you what requirements apply if you own or operate a Class V injection well. You may also be required to	The requirements described in these regulations are to protect underground sources of drinking water and are part	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
follow additional requirements listed in the rest of this part. Where they may apply, these other requirements are referenced rather than repeated. The requirements described in this subpart and elsewhere in this part are to protect underground sources of drinking water and are part of the Underground Injection Control (UIC) Program established under the Safe Drinking Water Act. This subpart is written in a special format to make it easier to understand the regulatory requirements. Like other EPA regulations, it establishes enforceable legal requirements.	of the Underground Injection Control (UIC) Program established under the Safe Drinking Water Act.	
<b>Sec. 144.80 What is a Class V injection well?</b>		<b>§122.22 Classification of injection wells</b> (also asked in Fed Sec. 144.6 Classification of wells.
As described in Sec. 144.6, injection wells are classified as follows:		
(a) Class I. (1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water.		(a) <u>Class I</u> (1) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing within one quarter mile of the well bore, an underground source of drinking water.
(2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water;		(2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water.

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(3) Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.		
(b) Class II. Wells which inject fluids:		(b) <u>Class II</u> – Wells used to inject fluids:
(1) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.		(1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.
(2) For enhanced recovery of oil or natural gas; and		(2) For enhanced recovery of oil or natural gas; and
(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.		(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.
(c) Class III. Wells which inject fluids for extraction of minerals including:		(c) <u>Class III</u> – Wells which inject for extraction of minerals or energy, including:
(1) Mining of sulfur by the Frasch process;		(1) Mining of sulfur by the Frasch process;
(2) In situ production of uranium or other metals; this category includes only in situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.		(2) In situ production of uranium or other metals;
(3) Solution mining of salts or potash.		(3) Solution mining of salts or potash.
(d) Class IV. (1) Wells used by generators of hazardous waste or of radioactive waste,		(d) <u>Class IV</u> . (1) Wells used by generators of hazardous

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
by owners and operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within one quarter (1/4) mile of the well contains an underground source of drinking water.		wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which within one quarter (1/4) mile of the well contains an underground source of drinking water.
(2) Wells used by generators of hazardous waste or of radioactive waste, by owners and operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter (1/4) mile of the well contains an underground source of drinking water.		(2) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter (1/4) mile of the well contains an underground source of drinking water.
(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under paragraph (a)(1) or (d)(1) and (2) of this section (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to 40 CFR 146.04).		(3) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to dispose of hazardous wastes, which cannot be classified under §122.22(a)(1) or 122.22(d)(1) and (2) (e.g. wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to §146.04).
(e) Class V. Injection wells not included in Class I, II, III or IV. Typically, Class V wells are shallow wells used to place a		(e) <u>Class V</u> – Injection wells not included in Class I, II, III, or IV. Class V wells include:

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variety of fluids directly below the land surface. However, if the fluids you place in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), your well is either a Class I or Class IV well, not a Class V well. Examples of Class V wells are described in Sec. 144.81.		[text not shown here]
<b>Sec. 144.81 Does this subpart apply to me?</b>	<b>Sec. 49.0 Class V Well Applicability</b>	
This subpart applies to you if you own or operate a Class V well, <del>for example</del> :	49.1 Sections 49.0-54.0 apply to person(s) who own or operate a Class V well (see Section 58.0 for well classes).	
	49.2 The following injection activities are Exempted, Prohibited, Authorized by Rule, Rule Authorized (letter), or require a UIC Permit:	
	49.2.1 <b>Exempted</b> from these UIC Regulations:	
	49.2.1.1 Non-residential on-site wastewater treatment and disposal systems (septics) which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day [see State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-site Wastewater Treatment and Disposal Systems</u> ];	
	49.2.1.2 Individual/residential home water treatment systems;	



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	49.2.1.3 Floor drains that discharge condensate only.	
	49.2.2 <b>Prohibited</b> injection activities:	
	49.2.2.1 Large capacity cesspools;	
	49.2.2.2 Class II, III, IV and VI Injection Wells;	
	49.2.2.3 Motor vehicle waste disposal wells (floor drains) in facilities which perform repairs or maintenance on engines, and are not connected to a POTW or an approved pretreatment unit (See Section 53.0).	
	49.2.2.4 Large capacity on-site wastewater treatment and disposal systems not designed, constructed or installed in accordance with the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-site Wastewater Treatment and Disposal Systems</u> .	
	49.2.2.5 Storm water structures not designed, constructed or installed in accordance with the State of Delaware <u>Sediment and Stormwater Regulations</u> .	
	49.2.2.6 Any injection activities not authorized by rule, receive a Rule Authorization letter or are permitted are prohibited.	
	49.2.2.7 Injection of hazardous fluids.	

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	<b>49.2.3 Authorized by Rule:</b>	
	49.2.3.1 The following activities are authorized by rule without the need to submit separate documentation or application to the UIC Program. Violations of the UIC Regulations may result in the requirement to obtain a UIC Permit:	
	49.2.3.1.1 Stormwater structures designed, constructed and installed in accordance with State of Delaware <u>Sediment and Stormwater Regulations</u> .	
	49.2.3.1.2 Large capacity on-site wastewater treatment and disposal systems designed, constructed and installed in accordance with the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-site Wastewater Treatment and Disposal Systems</u> .	
	49.2.3.1.3 Air conditioning return flow wells, which contain no additives and returns the water to the aquifer in which it was withdrawn.	
	49.2.3.1.4 Open-loop geothermal return flow wells.	
	<b>49.2.4 Rule Authorization letter:</b>	
	49.2.4.1 The following activities are Rule Authorized, and separate documentation or application will be required based on the injection activity:	
	49.2.4.1.1 Floor drains not located	

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	in an engine repair area.	
	49.2.4.1.2 Brine discharges from water treatment systems that treat less than 25,000 GPD of raw water.	
	49.2.4.1.3 Injection wells used to remediate contaminated soil or groundwater when the injection wells are approved as part of a DNREC-approved corrective action or remediation plan; approved remediation plan must document all injection activities.	
	49.2.5 <b>Permits</b> are required for these injection activities:	
	49.2.5.1 Aquifer Storage and Recovery wells.	
	49.2.5.2 Recharge wells used to replenish the water in an aquifer.	
	49.2.5.3 Remediation projects not conducted with the DNREC Tank Management Section or Site Investigation and Restoration Section.	
	49.2.5.4 Cooling water return wells.	
	49.2.5.5 Experimental injection well technologies;	
	49.2.5.6 Subsidence Control Wells.	
	49.2.5.7 Wick drains that direct fluid downward.	
	49.2.5.8 Lake Level Control wells.	
	49.2.5.9 Dry wells used for the	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	injection of wastes into a subsurface formation.	
	49.2.5.10 Brine discharges from water treatment plans that are designed to provide 25,000 GPD or more of potable water;	
	49.2.5.11 Air conditioning return flow wells.	
	49.2.5.12 Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water.	
	49.2.5.13 Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power;	
	49.2.5.14 Salt water intrusion barrier wells used to inject water into a fresh aquifer to prevent the intrusion of salt water into the fresh water.	
	49.2.5.15 Any storm water infiltration system consisting of a drilled or driven shaft, or dug hole that is deeper than it is wide or includes any subsurface piping, which comes into contact with an unconfined aquifer.	
	49.2.5.16 Any other injection activity, not specifically identified in these Regulations, that may discharge	

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	a fluid directly into a USDW which may cause a release of a contaminant in excess of primary drinking water standards.	
(1) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;	<i>Auth by Rule</i>	(1)(i) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;
(2) Large capacity cesspools including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes perforated sides. The UIC requirements do not apply to single family residential cesspools <del>nor to non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day.</del>	<i>Prohibited</i>	(2)(i) Cesspools including multiple dwelling, community or regional cesspools, or other devices that receive wastes which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day; <b>§122.22 Classification of injection wells.</b>
(3) Cooling water return flow wells used to inject water previously used for cooling;	<i>Permit</i>	(ii) Cooling water return flow wells used to inject water previously used for cooling;
(4) Drainage wells used to drain surface fluids, primarily storm runoff, into a subsurface formation;		(iii) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;
(5) Dry wells used for the injection of wastes into a subsurface formation;	<i>Permit</i>	(3)(i) Dry wells used for the injection of wastes into a subsurface formation;
(6) Recharge wells used to replenish the	<i>Permit</i>	(iv) Recharge wells used to replenish the

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
water in an aquifer;		water in an aquifer;
(7) Salt water intrusion barrier wells used to inject water into a fresh aquifer to prevent the intrusion of salt water into the fresh water;	<i>Permit</i>	(v) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;
(8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not.		(ii) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;
(9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.	<i>Auth by Rule</i>	(ii) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to nonresidential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day;
(10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;	<i>Permit</i>	(vi) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(11) Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power;	<i>Permit</i>	(4)(i) Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power;
<del>(12) Wells used for solution mining of conventional mines such as stopes leaching;</del>		(iv) Wells used for solution mining of conventional mines such as stopes leaching;
<del>(13) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;</del>		(v) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;
(14) Injection wells used in experimental technologies.	<i>Permit</i>	(ii) Injection wells used in experimental technologies.
<del>(15) Injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale.</del>		(vi) Injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale;
(16) Motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (MCLs) established by the primary drinking water regulations (see 40 CFR part 141). These fluids also may	<i>Prohibited</i>	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, which pose risks to human health.		
<b>Sec. 144.82 What must I do to protect underground sources of drinking water?</b>	<b>Sec. 50.0 Protection of underground sources of drinking water</b>	
If you own or operate any type of Class V well, the regulations below require that you cannot allow movement of fluid into USDWs that might cause endangerment, you must comply with other Federal UIC requirements in 40 CFR parts 144 through 147, and you must comply with any other measures required by your State or EPA Regional Office UIC Program to protect USDWs, and you must properly close your well when you are through using it. You also must submit basic information about your well, as described in Sec. 144.83.	50.1 Owners and operators of Class V injection wells shall not allow the movement of fluids into any USDW that threatens or may threaten the USDW and must comply with Federal and State UIC requirements. Owners and operators of Class V injection wells must properly close the wells upon the completion of injection activities. You also must submit basic information about your well, as described in Section 51.0.	
(a) Prohibition of fluid movement. (1) As described in Sec. 144.12(a), your injection activity cannot allow the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of the primary drinking water standards under 40 CFR part 141, other health based standards, or may otherwise adversely affect the health of persons. This prohibition applies to your well	50.2 Prohibition of fluid movement.  50.2.1 As described in Section 24.0 the injection activity cannot allow the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of the primary drinking water standards under the State of Delaware <u>Regulations Governing Public Drinking Water</u>	<b>§122.24 Prohibition of movement of fluid into underground sources of drinking water.</b>

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.	<u>Systems</u> , or may otherwise adversely affect the health of a person or persons. This prohibition applies to well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.	
(2) If the Director of the UIC Program <del>in your State or EPA Region</del> learns that your injection activity may endanger USDWs, he or she may require you to close your well, require you to get a permit, or require other actions listed in Sec. 144.12(c), (d), or (e).	50.2.2 If the Department learns that an injection activity may endanger one or more USDWs, the Department may require that the well be abandoned or require the owner/operator to obtain a permit or require other actions listed in Section 24.0.	
(b) Closure requirements. You must close the well in a manner that complies with the above prohibition of fluid movement. Also, you must dispose or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to your well in accordance with all applicable Federal, State, and local regulations and requirements.	50.3 Closure/Abandonment requirements. Owners/Operators must close the well in a manner that complies with the above prohibition of fluid movement. Also, Owners/Operators must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.	
(c) Other requirements in Parts 144 through 147. Beyond this subpart, you are subject to other UIC Program requirements in 40 CFR parts 144 through 147. While most of the relevant requirements are repeated or referenced in this subpart for	50.4 Class V wells are subject to other UIC Program requirements in these Regulations. Most of the relevant requirements are repeated or referenced in this subpart for convenience.	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
convenience, you need to read these other parts to understand the entire UIC Program.		
(d) Other State or EPA requirements. 40 CFR parts 144 through 147 define minimum Federal UIC requirements. <del>EPA Regional Offices administering the UIC Program have the flexibility to establish additional or more stringent requirements based on the authorities in parts 144 through 147, if believed to be necessary to protect USDWs.</del> States can have their own authorities to establish additional or more stringent requirements if needed to protect USDWs. You must comply with these additional requirements, if any exist in your area. Contact the UIC Program Director in your State or EPA Region to learn more.		
<b>Sec. 144.83 Do I need to notify anyone about my Class V injection well?</b>	<b>Sec. 51.0 Notification Requirements</b>	
Yes, you need to provide basic "inventory information" about your well to the UIC Director, if you haven't already. You also need to provide any additional information that your UIC Program Director requests in accordance with the provisions of the UIC regulations.	<b>51.1</b> At a minimum, Class V injection well owners/operators must provide inventory information regarding their Class V injection well(s) to the Department, within the specified time period.	
(a) Inventory requirements. Unless you know you have already satisfied the inventory requirements in Sec. 144.26 that were in effect prior to the issuance of this	<b>51.2</b> Inventory requirements. In accordance with Section 30.0, owners/operators of Class V wells are required to submit information	

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Subpart G, you must give your UIC Program Director certain information about yourself and your injection operation.	regarding the injection activities, in accordance with these regulations.	
Note: This information is requested on national form ``Inventory of Injection Wells," OMB No. 2040-0042.		
<del>(1) The requirements differ depending on your well status and location, as described in the following table:</del>		
{ table text not shown here }		
<del>(2) If your well is in a Primacy State or a DI Program State, here is the information you must submit:</del>		
(i) No matter what type of Class V well you own or operate, you must submit at least the following information for each Class V well: facility name and location; name and address of legal contact; ownership of facility; nature and type of injection well(s); and operating status of injection well(s).	51.3 Required information shall include, but is not limited to, the following: Owners/operators of all types of Class V wells must submit at least the following information for each Class V well: facility name and location (including tax parcel number and latitude and longitude); name, phone number, physical or street address and mailing address of legal contact; ownership of facility; nature and type of injection well(s); and operating status of injection well(s). Providing this information does not preclude the need for a Fact Sheet as set forth in Section 9.0.	
<del>(ii) Additional information. If you are in a Direct Implementation State and you own</del>		

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<del>or operate a well listed below you must also provide the information listed in paragraph (a) (2) (iii) as follows:—</del> { text from both sections not shown }		
<b>Sec. 144.84 Do I need to get a permit?</b>	<b>Sec. 52.0 Permit Applicability</b>	
No, unless you fall within an exception described below:	52.1 Class V wells may be Rule Authorized or approved by permit. The following Sections explain the conditions under which a Class V injection well may receive a Rule Authorization letter or approved by permit..	
(a) General authorization by rule. With certain exceptions listed in paragraph (b) of this section, your Class V injection activity is ``authorized by rule," meaning you have to comply with all the requirements of this subpart and the rest of the UIC Program but you don't have to get an individual permit. Well authorization expires once you have properly closed your well, as described in Sec. 144.82(b).	52.2 General Rule Authorization letter. A Class V injection activity, such as those listed in Section 49.0, may be Rule Authorized, meaning the owner/operator must comply with all the requirements of this subpart and the rest of the UIC Program, but an individual permit is not required. Well rule authorization letters are terminated upon proper well abandonment, as described in subsection 50.2.	
(b) Circumstances in Which Permits or other Actions are Required. If you fit into one of the categories listed below, <del>your Class V well is no longer authorized by rule. This means that</del> you have to either get a permit or close your injection well. You can find out by contacting the UIC Program Director <del>in your State or EPA Region if this is the case.</del> Subpart D of this	52.3 Circumstances in which permits or other actions are required. An owner/operator performing one of the activities listed below must either obtain a permit or close the injection well.	



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Part tells you how to apply for a permit and describes other aspects of the permitting process. Subpart E of this Part outlines some of the requirements that apply to you if you get a permit.		
(1) You fail to comply with the prohibition of fluid movement standard in Sec. 144.12(a) and described in Sec. 144.82(a) (in which case, you have to get a permit, close your well, and/or comply with other conditions determined by the UIC Program Director <del>in your State or EPA Region</del> );	52.3.1 Any Class V injection activity that is found to be out of compliance with a Rule Authorization letter;	
(2) You own or operate a Class V large-capacity cesspool (in which case, you must close your well as specified in the additional requirements below) or a Class V motor vehicle waste disposal well in a ground water protection area or sensitive ground water area (in which case, you must either close your well or get a permit as specified in the additional requirements in this subsection). New motor vehicle waste disposal wells and new cesspools are prohibited as of April 5, 2000;	52.3.2 Own or operate a Class V large-capacity cesspool (in which case, the owner/operator must close the well as specified in the additional requirements in subsection 53.1); new cesspools are prohibited;	
	52.3.3 Own or operate an Aquifer Storage and Recovery (ASR) well.	
	52.3.4 Own or operate a Class V well that discharges through a USDW.	
(3) You are specifically required by the UIC Program Director <del>in your State or</del>	52.3.5 The owner/operator is specifically required by the Department	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>EPA Region to get a permit (in which case, rule authorization expires upon the effective date of the permit issued, or you are prohibited from injecting into your well upon:</del>	to obtain a permit, or the owner/operator is prohibited from injecting into the well upon:	
(i) Failure to submit a permit application in a timely manner as specified in a notice from the Director; or	52.3.5.1 Failure to submit a permit application in a timely manner as specified in a notice from the Department; or	
(ii) Upon the effective date of permit denial);	52.3.5.2 Upon the effective date of permit denial;	
(4) You have failed to submit inventory information to your UIC Program Director, as described in Sec. 144.83(a) (in which case, you are prohibited from injecting into your well until you comply with the inventory requirements); or	52.3.6 The owner/operator has failed to submit inventory information to the Department, as described in Section 51.0 (in which case, the owner/operator is prohibited from injecting into the well until the inventory requirements are met).	
	52.3.7 Any Class V injection well that has not received a Rule Authorization letter.	
<del>(5) If you are in a DI State and you received a request from your UIC Program Director for additional information under Sec. 144.83(b), and have failed to comply with the request in a timely manner (in which case, you are prohibited from injecting into your well until you get a permit).</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Additional Requirements for Class V Large-Capacity Cesspools and Motor Vehicle Waste Disposal Wells		
<b>Sec. 144.85 Do these additional requirements apply to me?</b>		
(a) Large-Capacity Cesspools. The additional requirements apply to all new and existing large-capacity cesspools regardless of their location. If you are using a septic system for these type of wastes you are not subject to the additional requirements in this subpart.		
(b) Motor Vehicle Waste Disposal Wells Existing on April 5, 2000. If you have a Class V motor vehicle waste disposal well these requirements apply to you if your well is located in a ground water protection area or other sensitive ground water area <del>that is identified by your State or EPA Region. If your State or EPA Region fails to identify ground water protection areas and/or other sensitive ground water areas</del> these requirements apply to all Class V motor vehicle wells in the State.		
(c) New Motor Vehicle Waste Disposal Wells. The additional requirements apply to all new motor vehicle waste disposal wells as of April 5, 2000.		
<b>Sec. 144.86 What are the definitions I need to know?</b>		
(a) <i>State Drinking Water Source Assessment and Protection Program.</i> This		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<p>is a new approach to protecting drinking water sources, specified in the 1996 Amendments to the Safe Drinking Water Act at Section 1453. States must prepare and submit for EPA approval a program that sets out how States will conduct local assessments, including: delineating the boundaries of areas providing source waters for public water systems; identifying significant potential sources of contaminants in such areas; and determining the susceptibility of public water systems in the delineated areas to the inventoried sources of contamination.</p>		
<p>(b) <i>Complete Local Source Water Assessment for Ground Water Protection Areas.</i> When EPA has approved a State's Drinking Water Source Assessment and Protection Program, States will begin to conduct local assessments for each public water system in their State. For the purposes of this rule, local assessments for community water systems and non-transient non-community systems are complete when four requirements are met: First, a State must delineate the boundaries of the assessment area for community and non-transient non-community water systems. Second, the State must identify significant potential sources of contamination in these delineated areas. Third, the State must ``determine the</p>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
susceptibility of community and non-transient non-community water systems in the delineated area to such contaminants." Lastly, each State will develop its own plan for making the completed assessments available to the public.		
(c) <i>Ground Water Protection Area.</i> A ground water protection area is a geographic area near and/or surrounding community and non-transient non-community water systems that use ground water as a source of drinking water. These areas receive priority for the protection of drinking water supplies and States are required to delineate and assess these areas under section 1453 of the Safe Drinking Water Act. The additional requirements in Sec. 144.88 apply to you if your Class V motor vehicle waste disposal well is in a ground water protection area for either a community water system or a non-transient non-community water system, in many States, these areas will be the same as Wellhead Protection Areas that have been or will be delineated as defined in section 1428 of the SDWA.		
(d) <i>Community Water System.</i> A community water system is a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
(e) <i>Non-transient Non-community Water System.</i> A public water system that is not a community water system and that regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government/military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.		
(f) <i>Delineation.</i> Once a State's Drinking Water Source Assessment and Protection Program is approved, the States will begin delineating their local assessment areas. Delineation is the first step in the assessment process in which the boundaries of ground water protection areas are identified.		
(g) <i>Other Sensitive Ground Water Areas.</i> States may also identify other areas in the State in addition to ground water protection areas that are critical to protecting underground sources of drinking water from contamination. These other sensitive ground water areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface		



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to ground water, significance as a drinking water source, and prevailing land-use practices.		
<b>Sec. 144.87 How does the identification of ground water protection areas and other sensitive ground water areas affect me?</b>		
(a) You are subject to these new requirements if you own or operate an existing motor vehicle well <del>and you are located in a ground water protection area or an other sensitive ground water area. If your State or EPA Region fails to identify these areas within the specified time frames these requirements apply to all existing motor vehicle waste disposal wells within your State.</del>		
(b) Ground Water Protection Areas. (1) For the purpose of this subpart, <del>States are required to complete all local source water assessments for ground water protection areas by January 1, 2004. Once a local assessment for a ground water protection area is complete</del> every existing motor vehicle waste disposal well owner <del>in that ground water protection area has one year</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>to close the well or receive a permit. If a State fails to complete all local assessments for ground water protection areas by January 1, 2004, the following may occur:</del>		
<del>(i) The new requirements in this subpart will apply to all existing motor vehicle waste disposal wells in the State and owners and operators of motor vehicle waste disposal wells located outside of completed assessments for ground water protection areas must close their well or receive a permit by January 1, 2005.</del>		
<del>(ii) EPA may grant a State an extension for up to one year from the January 1, 2004 deadline if the State is making reasonable progress in completing the source water assessments for ground water protection areas. States must apply for the extension by June 1, 2003. If a State fails to complete the assessments for the remaining ground water protection areas by the extended date the rule requirements will apply to all motor vehicle waste disposal wells in the State and owners and operators of motor vehicle waste disposal wells located outside of ground water protection areas with completed assessments must close their well or receive a permit by January 1, 2006.</del>		
(2) The UIC Program Director may extend the compliance deadline for specific motor		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
vehicle waste disposal wells for up to one year if the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology.		
<del>(c) Other Sensitive Ground Water Areas: States may also delineate other sensitive ground water areas by January 1, 2004. Existing motor vehicle waste disposal well owners and operators within other sensitive ground water areas have until January 1, 2007 to receive a permit or close the well. If a State or EPA Region fails to identify these additional sensitive ground water areas by January 1, 2004, the new requirements of this rule will apply to all motor vehicle waste disposal wells in the State effective January 1, 2007 unless they are subject to a different compliance date pursuant to paragraph (b) of this section. Again, EPA may extend the January 1, 2004 deadline for up to one year for States to delineate other sensitive ground water areas if the State is making reasonable progress in identifying the sensitive areas. States must apply for this extension by June 1, 2003. If a State has been granted an extension, existing motor vehicle waste disposal well owners and operators within the sensitive ground water areas have until January 1, 2008 to close the well or receive a permit, unless they</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>are subject to a different compliance date pursuant to paragraph (b) of this section. If a State has been granted an extension and fails to delineate sensitive areas by the extended date, the rule requirements will apply to all motor vehicle waste disposal wells in the State and owners and operators have until January 1, 2008 to close the well or receive a permit, unless they are subject to a different compliance date pursuant to paragraph (b) of this section.</del>		
<del>(d) How to Find Out if Your Well is in a Ground Water Protection Area or Sensitive Ground Water Area. States are required to make their local source water assessments widely available to the public through a variety of methods after the assessments are complete. You can find out if your Class V well is in a ground water protection area by contacting the State agency responsible for the State Drinking Water Source Assessment and Protection Program in your area. You may call the Safe Drinking Water Hotline at 1-800-426-4791 to find out who to call in your State for this information. The State office responsible for implementing the Drinking Water Source Assessment and Protection Program makes the final and official determination of boundaries for ground water protection areas. Because States that choose to delineate other sensitive ground</del>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<p><del>water areas are also required to make the information on these areas accessible to the public, they may do so in a manner similar to the process used by the States in publicizing the EPA approved Drinking Water Source Assessment and Protection Program. You can find out if your Class V well is in an other sensitive ground water area by contacting the State or Federal agency responsible for the Underground Injection Control Program. You may call the Safe Drinking Water Hotline at 1-800-426-4791 to find out who to call for information.</del></p>		
<p><del>(e) Changes in the Status of the EPA Approved State Drinking Water Source Assessment and Protection Program. After January 1, 2004 your State may assess a ground water protection area for ground water supplying a new community water system or a new non-transient non-community water system that includes your Class V injection well. Also, your State may officially re-delineate the boundaries of a previously delineated ground water protection area to include additional areas that includes your motor vehicle waste disposal well. This would make the additional regulations apply to you if your motor vehicle waste disposal well is in such an area. The additional regulations start applying to you one year</del></p>		

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>after the State completes the local assessment for the ground water protection area for the new drinking water system or the new re-delineated area. The UIC Program Director responsible for your area may extend this deadline for up to one year if the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology.</del>		
<del>(f) What Happens if My State Doesn't Designate Other Sensitive Ground Water Areas? If your State or EPA Region elects not to delineate the additional sensitive ground water areas, the additional regulations apply to you regardless of the location of your well by January 1, 2007, or January 2008 if an extension has been granted as explained in paragraph (c) of this section, except for wells in ground water protection areas which are subject to different compliance deadlines explained in paragraph (b) of this section.</del>		
<del>(g) [Reserved]</del>		
<del>(h) Application of Requirements Outside of Ground Water Protection Areas and Sensitive Ground Water Areas. EPA expects and strongly encourages States to use existing authorities in the UIC program to take whatever measures are needed to ensure Class V wells are not endangering USDWs in any other areas outside of</del>		



Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<del>delineated ground water protection areas and sensitive ground water areas. Such measures could include, if believed to be necessary by a UIC Program Director, applying the additional requirements below to other areas and/or other types of Class V wells. Therefore, the Director may apply the additional requirements to you, even if you are not located in the areas listed in paragraph (a) of this section.</del>		
<b>Sec. 144.88 What are the additional requirements?</b>	<b>Sec. 53.0 Additional Requirements</b>	
Additional Requirements for Large-Capacity Cesspools Statewide	53.1 Additional Requirements for Large-Capacity Cesspools Statewide	
[table not shown]	53.1.1 At least 30 days prior to closure, the owner/operator must notify the UIC Program Manager of their intent to close the well.	
	53.1.2 Cesspools are to be properly abandoned in accordance with these Regulations, the State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> , and the <u>Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems</u> .	

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
	53.1.3 All existing Large-Capacity Cesspools are to be abandoned, in accordance with the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems</u> . See Section 54.0 regarding proper abandonment of a Class V well.	
Additional Requirements for Motor Vehicle Waste Disposal Wells	53.2 Additional Requirements for Motor Vehicle Waste Disposal Wells	
[table not shown]		
	53.2.1 Motor vehicle waste disposal wells (or drains) are prohibited.	
	53.2.2 See Section 54.0 regarding proper abandonment of a Class V Well. The Department may extend the compliance deadline for specific motor vehicle waste disposal wells if the most efficient compliance option for the well is connection to a sanitary sewer within six (6) months.	
If you receive a permit, you must comply with all permit conditions, if you choose to keep operating your well, including requirements to meet MCLs and other health based standards at the point of injection, follow best management practices (BMPs), and monitor your		

Current FED regs Part 144 Underground Injection Control Program	Proposed State regs (based on the FED regs)	Current STATE regs
injectate and sludge quality.		
<b>Sec. 144.89 How do I close my Class V injection well?</b>	<b>Sec. 54.0 Closure/Abandonment of Class V Injection Wells</b>	
The following describes the requirements for closing your Class V injection well.	54.1 The following describes the requirements for properly abandoning Class V injection wells.	
(a) Closure. (1) Prior to closing a Class V large-capacity cesspool or motor vehicle waste disposal well, you must plug or otherwise close the well in a manner that complies with the prohibition of fluid movement standard in Sec. 144.12 and summarized in Sec. 144.82(a). If the UIC Program Director <del>in your State or EPA Region</del> has any additional or more specific closure standards, you have to meet those standards too. You also must dispose or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to your well in accordance with all applicable Federal, State, and local regulations and requirements, as in Sec. 144.82(b).	54.2 Closure.  54.2.1 Prior to closing a Class V injection well, the owner/operator must plug or otherwise close the well in a manner that complies with the prohibition of fluid movement standard in Section 24.0 and summarized in Section 50.0. If the Department has any additional or more specific closure standards, the owner/operator must also meet those standards. The owner/operator also must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements, as in Section 50.0. All well abandonment must meet the State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> .	
(2) Closure does not mean that you need to cease operations at your facility, only that you need to close your well. A number of	54.2.2 Closure/abandonment does not mean that operations must cease at the facility, only that the injection	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<p>alternatives are available for disposing of waste fluids. Examples of alternatives that may be available to motor vehicle stations include: recycling and reusing wastewater as much as possible; collecting and recycling petroleum-based fluids, coolants, and battery acids drained from vehicles; washing parts in a self-contained, recirculating solvent sink, with spent solvents being recovered and replaced by the supplier; using absorbents to clean up minor leaks and spills, and placing the used materials in approved waste containers and disposing of them properly; using a wet vacuum or mop to pick up accumulated rain or snow melt, and if allowed, connecting floor drains to a municipal sewer system or holding tank, and if allowed, disposing of the holding tank contents through a publicly owned treatment works. You should check with the publicly owned treatment works you might use to see if they would accept your wastes. Alternatives that may be available to owners and operators of a large-capacity cesspool include: conversion to a septic system; connection to sewer; and installation of an on-site treatment unit.</p>	<p>well(s) must be closed.</p>	
<p>(b) Conversions. In limited cases, the UIC Director may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V</p>	<p>See 53.2.3</p>	

Current FED regs Part 144 Underground Injection Control Program	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
well. Motor vehicle wells may only be converted if: all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and, injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.		
END OF PART 144		

Current FED regs Part 145	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Part 145 – State UIC Program Requirements	<b>Part 146 – UIC Program: Criteria and Standards - Sections 55.0-70.0</b>	

Current FED regs Part 146	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
Part 146 –UIC Program: Criteria and Standards		
<b>Sec. 146.1 Applicability and scope.</b>	<b>Sec. 55.0 Applicability and scope.</b>	<b>§146.01 Applicability and scope.</b>
(a) This part sets forth technical criteria and standards for the Underground Injection Control Program. This part should be read in conjunction with 40 CFR parts 124, 144, and 145, which also apply to UIC programs. 40 CFR part 144 defines the regulatory framework of EPA administered permit programs. 40 CFR part 145 describes the elements of an approvable State program and procedures for EPA approval of State participation in the permit programs. 40 CFR part 124 describes the procedures the Agency will use for issuing permits under the covered programs. Certain of these procedures will also apply to State-administered programs as specified in 40 CFR part 145.	55.1 This Part or Sections 55.0- 70.0 set forth technical criteria and standards for the Underground Injection Control Program.	(a) This Part set forth technical criteria and standards for the Underground Injection Control Program. This part should be read in conjunction with Parts 122, and 124. Part 122 defines the regulatory framework of State administered permit programs. Part 124 describes the procedures the Agency will use for issuing permits under the program.
(b) <del>Upon the approval, partial approval or promulgation of a State UIC program by the Administrator,</del> any underground injection which is not authorized by the Director by rule or by permit is unlawful.	55.2 Any underground injection which is not authorized by rule, receives a Rule Authorized letter or issued a written Permit by the Department, is unlawful.	(b) Upon the approval of a State UIC program by the Administrator, any underground injection which is not authorized by the Secretary by rule or by permit is unlawful.
<b>Sec. 146.2 Law authorizing these regulations.</b>	<b>Section 56.0 Law authorizing these regulations.</b>	
The Safe Drinking Water Act, 42 U.S.C. 300f et seq. authorizes these regulations and all other UIC program regulations referenced in 40 CFR part 144. <del>Certain</del>	Title 7 <b>Del.C.</b> §6003 authorizes these Regulations and all other UIC program regulations referenced in Sections 55.0-70.0..	



Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
<del>regulations relating to the injection of hazardous waste are also authorized by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.</del>		
<b>Sec. 146.3 Definitions.</b>		
The following definitions apply to the underground injection control program.		
[text not shown here]		
<b>Sec. 146.4 Criteria for exempted aquifers.</b>	<b>Section 57.0 Criteria for exempted aquifers.</b>	<b>§146.04 Criteria for exempted aquifers.</b>
An aquifer or a portion thereof which meets the criteria for an "underground source of drinking water" in Sec. 146.3 may be determined under 40 CFR 144.8 to be an "exempted aquifer" if it meets the following criteria:	57.1 An aquifer or a portion thereof which meets the definition for an "underground source(s) of drinking water" in Section 4.0 may be determined to be an "exempted aquifer" if it meets the following criteria:	An aquifer or a portion thereof which meets the criteria for an "underground source of drinking water" in §122.3 may be determined under §122.25 to be an "exempted aquifer" if it meets the following criteria:
(a) It does not currently serve as a source of drinking water; and	57.2 It does not currently serve as a source of drinking water;	(a) It does not currently serve as a source of drinking water; and
(b) It cannot now and will not in the future serve as a source of drinking water because:	57.3 It cannot now and will not in the future serve as a source of drinking water because:	(b) It cannot now and will not be in the future serve as a source of drinking water because:
(1) It is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be		

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
commercially producible.		
(2) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;	57.3.1 It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical; or	(1) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;
(3) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or	57.3.2 It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption;	(2) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
<del>(4) It is located over a Class III well mining area subject to subsidence or catastrophic collapse; or</del>		
(c) The total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.	57.4 The total dissolved solids content of the Groundwater is more than 3,000 mg/L and less than 10,000 mg/L and it is not reasonably expected to supply a public water system; and	(c) The Total Dissolved Solids content of the ground water is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.
	57.5 A major aquifer exemption has been approved by the U.S. Environmental Protection Agency.	
<b>Sec. 146.5 Classification of injection wells.</b>	<b>Section 58.0 Classification of injection wells.</b>	<b>§122.22 Classification of injection wells.</b>
Injection wells are classified as follows:	58.1 Injection wells are classified as follows: [note: some of these types of wells are prohibited in Delaware, including all Class II, III, IV, and VI injection wells]	The following classifications apply to Parts 122 and 146:

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
(a) Class I. (1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one quarter (1/4) mile of the well bore, an underground source of drinking water.	58.2 Class I. 58.2.1 Wells used by generators, owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost aquifer containing, within one-quarter (1/4) mile of the well bore, an underground source of drinking water.	(a) <u>Class I</u> (1) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing within one quarter mile of the well bore, an underground source of drinking water.
(2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water.	58.2.2 Industrial and domestic disposal wells which inject fluids beneath the lowermost aquifer containing, within one-quarter (1/4) mile radius of the well bore, an underground source of drinking water.	(2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water.
(3) Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.		
(b) Class II. Wells which inject fluids:	58.3 Class II {prohibited}. Wells which inject fluids:	(b) <u>Class II</u> – Wells used to inject fluids:
(1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production	58.3.1 Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of	(1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
operations, unless those waters are classified as a hazardous waste at the time of injection.	production operations, unless those waters are classified as a hazardous waste at the time of injection.	operations, unless those waters are classified as a hazardous waste at the time of injection.
(2) For enhanced recovery of oil or natural gas; and	58.3.2 For enhanced recovery of oil or natural gas.	(2) For enhanced recovery of oil or natural gas; and
(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.	58.3.3 For storage of hydrocarbons which are liquid at standard temperature and pressure.	(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.
(c) Class III. Wells which inject for extraction of minerals including:	58.4 Class III {prohibited}. Wells which inject for extraction of minerals including:	(c) <u>Class III</u> – Wells which inject for extraction of minerals or energy, including:
(1) Mining of sulfur by the Frasch process;	58.4.1 Mining of sulfur by the Frasch process;	(1) Mining of sulfur by the Frasch process;
(2) In situ production of uranium or other metals. This category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.	58.4.2 In situ production of uranium or other metals. This category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.	(2) In situ production of uranium or other metals;
(3) Solution mining of salts or potash.	58.4.3 Solution mining of salts or potash.	(3) Solution mining of salts or potash.
(d) Class IV. (1) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal	58.5 Class IV {prohibited}.  58.5.1 Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of	(d) <u>Class IV</u> . (1) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous wastes management facilities, or by owners or operators of radioactive

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sites to dispose of hazardous waste or radioactive waste into a formation which within one quarter ( $\frac{1}{4}$ ) mile of the well contains an underground source of drinking water.	hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which contains an underground source of drinking water within one-quarter ( $\frac{1}{4}$ ) mile of the well.	waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which within one quarter ( $\frac{1}{4}$ ) mile of the well contains an underground source of drinking water.
(2) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter ( $\frac{1}{4}$ ) mile of the well contains an underground source of drinking water.	58.5.2 Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which contains an underground source of drinking water within one-quarter ( $\frac{1}{4}$ ) mile of the well	(2) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter ( $\frac{1}{4}$ ) mile of the well contains an underground source of drinking water.
(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under Sec. 146.05(a)(1) or Sec. 146.05(d)(1) and (2) (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to Sec. 146.04).	58.5.3 Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under this Section (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to Section 57.0).	(3) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to dispose of hazardous wastes, which cannot be classified under §122.22(a)(1) or 122.22(d)(1) and (2) (e.g. wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to §146.04).
(e) Class V. Injection wells not included in Class I, II, III, or IV. Specific types of	58.6 Class V. Injection wells not included in Class I, II, III, IV or VI.	(e) <u>Class V</u> – Injection wells not included in Class I, II, III, or IV. Class V wells



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Class V injection wells are also described in 40 CFR 144.81. Class V wells include:	Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), the well is either a Class I or Class IV well, not a Class V well. Examples of Class V wells include, but are not limited to:	include:
(1) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;	58.6.1 Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump.	(1)(i) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;
(2) Cesspools including multiple dwelling, community or regional cesspools, or other devices that receive wastes which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non-residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day.	See 58.5.7	(2)(i) Cesspools including multiple dwelling, community or regional cesspools, or other devices that receive wastes which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day;
(3) Cooling water return flow wells used to inject water previously used for cooling;	58.6.2 Cooling water return flow wells used to inject water previously used for cooling, which contain no additives.	(ii) Cooling water return flow wells used to inject water previously used for cooling;
(4) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;	58.6.3 Drainage wells used to discharge or inject surface fluid, primarily storm runoff, directly into a	(iii) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;

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	USDW.	
(5) Dry wells used for the injection of wastes into a subsurface formation;		(3)(i) Dry wells used for the injection of wastes into a subsurface formation;
(6) Recharge wells used to replenish the water in an aquifer;	58.6.4 Recharge wells used to replenish the water in an aquifer.	(iv) Recharge wells used to replenish the water in an aquifer;
(7) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;	58.6.5 Salt water intrusion barrier wells used to inject potable water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water.	(v) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;
(8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not.	58.6.6 Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined-out portions of subsurface mines whether what is injected is a radioactive waste or not.	(ii) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;
(9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.	58.6.7 Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, or community septic tank. The UIC requirements do not apply to single family residential septic system wells, or to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day; see also the State of Delaware <u>Regulations Governing the Design, Installation and</u>	(ii) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to nonresidential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day;



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	<u>Operation of On-Site Wastewater Treatment and Disposal Systems.</u>	
(10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;	58.6.8 Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water.	(vi) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;
(11) Radioactive waste disposal wells other than Class IV;		(iii) Radioactive waste disposal wells other than Class IV;
(12) Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power.	58.6.9 Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power.	(4)(i) Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power;
(13) Wells used for solution mining of conventional mines such as stopes leaching;		(iv) Wells used for solution mining of conventional mines such as stopes leaching;
(14) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;		(v) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;
(15) Injection wells used in experimental technologies.	58.6.10 Experimental injection well technologies.	(ii) Injection wells used in experimental technologies;
(16) Injection wells used for in situ recovery of lignite, coal, tar sands, and oil		(vi) Injection wells used for in situ recovery of lignite, coal, tar sands, and oil

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shale.		shale.
	58.6.11 Aquifer Storage and Recovery (ASR) wells.	
	58.7 Class VI {prohibited}. Injection wells used to inject Carbon Dioxide (CO <sub>2</sub> ) for long-term storage, also known as Geologic Sequestration of CO <sub>2</sub> .	
<b>Sec. 146.6 Area of review.</b>	<b>Section 59.0 Area of review.</b>	<b>§146.06 Area of Review.</b>
The area of review for each injection well or each field, project or area of the State shall be determined according to either paragraph (a) or (b) of this section. The Director may solicit input from the owners or operators of injection wells within the State as to which method is most appropriate for each geographic area or field.	59.1 The area of review for each injection well shall be determined according to this Section. The Department may solicit input from other technical professionals to determine which method is most appropriate for each geographic area. The area of review may be determined by fixed radius only after the GWDS has calculated or approved the radius to be used.	The area of review for each injection well shall be determined according to either paragraph (a) or (b) of this section. The Secretary may solicit input from the owners or operators of injection wells within the State as to which method is most appropriate for each geographic area or field.
(a) Zone of endangering influence. (1) The zone of endangering influence shall be:	59.2 Zone of endangering influence: The zone of endangering influence shall be determined in accordance with a submitted methodology that has been reviewed and approved by the GWDS, and 40 CFR Part 146 §146.6(a)(1) and §146.6(a)(2).	
(i) In the case of application(s) for well permit(s) under Sec. 122.38 that area the radius of which is the lateral distance in		

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which the pressures in the injection zone may cause the migration of the injection and/or formation fluid into an underground source of drinking water; or		
(ii) In the case of an application for an area permit under Sec. 122.39, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection and/or formation fluid into an underground source of drinking water.		
(2) Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified Theis equation illustrates one form which the mathematical model may take.		
$r = \left[ \frac{2.25KHt}{S10^x} \right]^{1/2}$ <p>where</p> $X = \frac{4\pi KH(h_w - h_{bo} \times S_p G_b)}{2.3Q}$		
r = Radius of endangering influence from injection well (length)		

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<p><math>K</math> = Hydraulic conductivity of the injection zone (length/time)</p> <p><math>H</math> = Thickness of the injection zone (length)</p> <p><math>t</math> = Time of injection (time)</p> <p><math>S</math> = Storage coefficient (dimensionless)</p> <p><math>Q</math> = Injection rate (volume/time)</p> <p><math>h_{bo}</math> = Observed original hydrostatic head of injection zone (length) measured from the base of the lowermost underground source of drinking water</p> <p><math>h_w</math> = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water</p> <p><math>S_p G_b</math> = Specific gravity of fluid in the injection zone (dimensionless)</p> <p><math>\pi = [\pi] = 3.142</math> (dimensionless)</p>		
The above equation is based on the following assumptions:		
(i) The injection zone is homogenous and isotropic;		
(ii) The injection zone has infinite area extent;		

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(iii) The injection well penetrates the entire thickness of the injection zone;		
(iv) The well diameter is infinitesimal compared to ``r" when injection time is longer than a few minutes; and		
(v) The emplacement of fluid into the injection zone creates instantaneous increase in pressure.		
(b) Fixed radius. (1) In the case of application(s) for well permit(s) under Sec. 122.38 a fixed radius around the well of not less than one-fourth (1/4) mile may be used.	59.3 Fixed radius. 59.3.1 In the case of application(s) for an individual injection well permit(s), a fixed radius around the well of not less than one-fourth (¼) mile may be used.	(a) Fixed Radius. In the case of application(s) for well permit(s) under §122.28 a fixed radius around the well of not less than one-fourth (1/4) mile may be used. In determining the fixed radius, the following factors shall be taken into consideration: chemistry of injected and formation fluids; hydrogeology; population and ground-water use and dependence; and historical practices in the area.
(2) In the case of an application for an area permit under Sec. 122.39 a fixed width of not less than one-fourth (1/4) mile for the circumscribing area may be used.		
In determining the fixed radius, the following factors shall be taken into consideration: Chemistry of injected and formation fluids; hydrogeology; population and ground-water use and dependence; and historical practices in the area.	59.3.2 In determining the fixed radius, the following factors shall be taken into consideration: Chemistry of injected and formation fluids; hydrogeology; population and ground-water use and dependence; and historical practices in the area.	
(c) If the area of review is determined by a mathematical model pursuant to paragraph	59.4 If the area of review is determined by a mathematical model	(b) If the area of review is determined by a mathematical model pursuant to paragraph

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(a) of this section, the permissible radius is the result of such calculation even if it is less than one-fourth (1/4) mile.	pursuant to subsection 59.2, the permissible radius is the result of such calculation even if it is less than one-fourth (¼) mile.	(a) of this section, the permissible radius is the result of such calculation even if it is less than one-fourth (1/4) mile.
	59.5 The GWDS may require that a radius of influence be calculated. The radius of influence may be determined based on aquifer characteristics, screen length (if applicable), depth to injection, injection pressure and other factors concerning the characteristics of the injection fluid.	
<b>Sec. 146.7 Corrective action.</b>	<b>Section 60.0 Corrective action.</b>	<b>§146.07 Corrective Action.</b>
In determining the adequacy of corrective action proposed by the applicant under 40 CFR 144.55 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the Director:	60.1 In determining the adequacy of corrective action proposed by the applicant under Section 47.0 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the Department:	In determining the adequacy of corrective action proposed by the applicant under sec. 122.34 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the Secretary:
(a) Nature and volume of injected fluid;	60.1.1 Nature and volume of injected fluid;	(a) Nature and volume of injected fluid;
(b) Nature of native fluids or by-products of injection;	60.1.2 Nature of native fluids or by-products of injection;	(b) Nature of native fluids or byproducts of injection;
(c) Potentially affected population;	60.1.3 Potentially affected population;	(c) Potentially affected population;
(d) Geology;	60.1.4 Geology;	(d) Geology;

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(e) Hydrology;	60.1.5 Hydrology	(e) Hydrology;
(f) History of the injection operation;	60.1.6 History of the injection operation;	(f) History of the injection operation;
(g) Completion and plugging records;	60.1.7 Completion and plugging records;	(g) Completion and plugging records;
(h) Abandonment procedures in effect at the time the well was abandoned; and	60.1.8 Abandonment procedures in effect at the time the well was abandoned;	(h) Abandonment procedures in effect at the time the well was abandoned; and
(i) Hydraulic connections with underground sources of drinking water.	60.1.9 Hydraulic connections with underground sources of drinking water;	(i) Hydraulic connections with underground sources of drinking water.
	60.1.10 Aquifer use; and	
	60.1.11 Potential impact to USDW.	
<b>Sec. 146.8 Mechanical integrity.</b>	<b>Section 61.0 Mechanical integrity.</b>	<b>§146.08 Mechanical Integrity</b>
	61.1 These provisions shall apply to all Class I wells.	
(a) An injection well has mechanical integrity if:	61.1.1 An injection well has mechanical integrity if:	(a) An injection well has mechanical integrity if:
(1) There is no significant leak in the casing, tubing or packer; and	61.1.1.1 There is no significant leak in the casing, tubing or packer, as verified by required tests; and	(1) There is no significant leak in the casing, tubing, or packer; and
(2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to	61.1.1.2 There is no significant fluid movement into an underground source of drinking water through	(2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to



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the injection well bore.	vertical channels adjacent to the injection well bore.	the injection well bore.
(b) One of the following methods must be used to evaluate the absence of significant leaks under paragraph (a)(1) of this section:	61.1.2 One of the following methods must be used to evaluate the absence of significant leaks under Section 61.1.1.1:	(b) One of the following methods must be used to evaluate the absence of significant leaks under paragraph (a)(1) of this section:
(1) Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Director, while maintaining an annulus pressure different from atmospheric pressure measured at the surface;	61.1.2.1 Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Director, while maintaining an annulus pressure different from atmospheric pressure measured at the surface; or	(1) Monitoring of annulus pressure; or
(2) Pressure test with liquid or gas; or	61.1.2.2 Pressure test of inner casing or tubing with liquid or gas;	(2) Pressure test with liquid or gas;
<del>(3) Records of monitoring showing the absence of significant changes in the relationship between injection pressure and injection flow rate for the following Class II enhanced recovery wells:</del>  [text for (i) and (ii) not shown here]		
(c) One of the following methods must be used to determine the absence of significant fluid movement under paragraph (a)(2) of this section:	61.1.3 The following methods shall be used to determine the absence of fluid movement under subsection 61.1.1.2.:	
(1) The results of a temperature or noise log; or	61.1.3.1 The results of a temperature or noise log, and	(c) The results of a temperature or noise log must be used to determine the absence of significant fluid movement under

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		paragraph (a)(2) of this section.
	61.1.3.2 A radioactive tracer survey. The radioactive tracer survey shall not be required by the Department if such testing may pose a threat to an underground source of drinking water.	
<del>(2) For Class II only, cementing records demonstrating the presence of adequate cement to prevent such migration; or</del>		
<del>(3) For Class III wells where the nature of the casing precludes the use of the logging techniques prescribed at paragraph (c)(1) of this section, cementing records demonstrating the presence of adequate cement to prevent such migration;</del>		
<del>(4) For Class III wells where the Director elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by Sec. 146.33(b) shall be designed to verify the absence of significant fluid movement.</del>		
(d) The Director may allow the use of a test to demonstrate mechanical integrity other than those listed in paragraphs (b) and (c)(2) of this section with the written approval of the Administrator. To obtain approval, the Director shall submit a written request to the Administrator, which shall set forth the proposed test and all technical data supporting its use. The	61.1.4 The Department shall allow the use of a test to demonstrate mechanical integrity, other than those listed in subsections 61.1.2 and 61.1.3, if the applicant has sought and obtained the written approval of the DNREC and the EPA. If the EPA has published in the Federal Register an alternative mechanical integrity test	(d) The Secretary may allow the use of a test to demonstrate mechanical integrity other than those listed in paragraphs (b) and (c)(2) of this section with the written approval of the Administrator. To obtain approval, the Secretary shall submit a written request to the Administrator, which shall set forth the proposed test and all technical data supporting its use. The

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Administrator shall approve the request if it will reliably demonstrate the mechanical integrity of wells for which its use is proposed. Any alternate method approved by the Administrator shall be published in the Federal Register and may be used in all States unless its use is restricted at the time of approval by the Administrator.	method, only written Department approval shall be required before conducting alternative mechanical integrity tests other than those specified in subsections 61.1.2 and 61.1.3. The Department approval process is described in Section 61.0.	Administrator shall approve the request if it will reliably demonstrate the mechanical integrity of wells for which its use is proposed. Any alternate method approved by the Administrator shall be published in the Federal Register.
(e) In conducting and evaluating the tests enumerated in this section or others to be allowed by the Director, the owner or operator and the Director shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Director, he shall include a description of the test(s) and the method(s) used. In making his/her evaluation, the Director shall review monitoring and other test data submitted since the previous evaluation.	61.1.5 A pressure test required under subsection 61.1.2 shall be conducted with a liquid at a minimum pressure of 1.5 times the maximum pressure at which the well is to be permitted, or 50 psi, whichever is higher, for at least one (1) hour. Internal mechanical integrity under subsection 61.1.1 is demonstrated if there is no more than a five-percent (5%) pressure change over the one-hour test period. The pressure used to test wells constructed using tubing and packer shall not exceed the design specifications of the tubing or packer.	(e) In conducting and evaluating the tests enumerated in this section or others to be allowed by the Secretary, the owner or operator and the Secretary shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Secretary, he shall include a description of the test(s) and the method(s) used. In making his/her evaluation, the Secretary shall review monitoring and other test data submitted since the previous evaluation.
(f) The Director may require additional or alternative tests if the results presented by the owner or operator under Sec. 146.8(e) are not satisfactory to the Director to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.	61.1.6 A Radioactive Tracer Test required under subsection 61.1.3 shall be performed in accordance with one of the methods published by the EPA in the Federal Register and EPA technical documents. The permittee shall submit a Radioactive Tracer Test Plan for Department approval prior to performing the test, and shall arrange	

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	to perform the test with a Department representative on site.	
	61.1.7 In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Department, the owner or operator and the Department shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Department, such report shall include a description of the test(s), the method(s) used, and the interpretation of the results. In making the evaluation, the Department shall review monitoring and other test data submitted since the previous evaluation.	
	61.1.8 The Department shall require additional or alternative mechanical integrity tests in accordance with this Section.	
	61.1.9 A permit for any Class I or injection project which lacks mechanical integrity shall include, and for any Class V well may include, a condition prohibiting injection operations until the permittee affirmatively demonstrates under subsections 61.1.1 through 61.1.3, that the well has mechanical integrity, or	

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	the permittee affirmatively demonstrates that there is no movement of fluid into or between underground sources of drinking water.	
	61.1.10 Prior to making a formal determination regarding an injection well, the Department may consult with outside technical professionals including, but not limited to, the following: representatives from the Department's offices, the Delaware Geological Survey, local environmental programs, the United States Geological Survey (USGS) and the EPA.	
	61.1.11 The Department may require additional or alternative tests if the results presented by the owner or operator are not satisfactory to the Department to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.	
<b>Sec. 146.9 Criteria for establishing permitting priorities.</b>	<b>Section 62.0 Criteria for establishing permitting priorities.</b>	
In determining priorities for setting times for owners or operators to submit applications for authorization to inject under the procedures of Sec. 144.31 (a), (c), (g) or Sec. 144.22(f), the Director shall base these priorities upon consideration of the following factors:	62.1 In determining priorities for setting times for owners or operators to submit applications for authorization to inject under the procedures of Section 32.0, the Department shall base these priorities upon consideration of the following factors:	

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(a) Injection wells known or suspected to be contaminating underground sources of drinking water;	62.1.1 Injection wells known or suspected to be contaminating underground sources of drinking water;	
(b) Injection wells known to be injecting fluids containing hazardous contaminants;	62.1.2 Injection wells known to be injecting fluids containing hazardous contaminants;	
(c) Likelihood of contamination of underground sources of drinking water;	62.1.3 Likelihood of contamination of underground sources of drinking water;	
(d) Potentially affected population;	62.1.4 Potentially affected population;	
(e) Injection wells violating existing State requirements;	62.1.5 Injection wells violating existing State requirements;	
(f) Coordination with the issuance of permits required by other State or Federal permit programs;	62.1.6 Coordination with the issuance of permits required by other State or Federal permit programs;	
(g) Age and depth of the injection well; and	62.1.7 Age and depth of the injection well; and	
(h) Expiration dates of existing State permits, if any.	62.1.8 Expiration dates of existing permits, if any.	
<b>Sec. 146.10 Plugging and abandoning Class I, <del>II, III, IV,</del> and V wells.</b>	<b>63.0 Plugging and abandoning Class I and Major Class V wells.</b>	<b>§146.10 Plugging and Abandoning Class I Wells</b>
(a) Requirements for Class I, <del>II and III</del> wells. (1) Prior to abandoning Class I, <del>II and III</del> wells, the well shall be plugged with cement in a manner which will not	63.1 Requirements for Class I and Major Class V wells. 63.1.1 Prior to abandoning Class I and Major Class V wells, the well shall be	(a) Prior to abandoning Class I wells the well shall be plugged with cement in a manner which will not allow the movement of fluids either into or between

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allow the movement of fluids either into or between underground sources of drinking water. <del>The Director may allow Class III wells to use other plugging materials if the Director is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.</del>	plugged with Portland cement in a manner which will not allow the movement of fluids either into or between underground sources of drinking water.	underground sources of drinking water.
(2) Placement of the cement plugs shall be accomplished by one of the following:	63.1.2 Placement of Portland cement shall conform to the State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> , or {continued below}	(b) Placement of the cement plugs shall be accomplished by one of the following:
(i) The Balance method;		(1) The Balance Method;
(ii) The Dump Bailer method;		(2) The Dump Bailer Method; or
(iii) The Two-Plug method; or		(3) The Two-Plug Method;
(iv) An alternative method approved by the Director, which will reliably provide a comparable level of protection to underground sources of drinking water.	[or] an alternative method approved by the Department, which will reliably provide a comparable level of protection to underground sources of drinking water.	(4) or an alternative method approved by the Secretary, which will reliably provide a comparable level of protection to underground sources of drinking water.
(3) The well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Director, prior to the placement of the cement plug(s).	63.1.3 All wells shall be filled with the appropriate sealing or fill materials starting from the bottom of the well upward to the ground surface, except as noted in State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> , or unless otherwise approved by the Department.	(c) The well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Secretary, prior to the placement of the cement plug(s).
(4) <del>The plugging and abandonment plan required in 40 CFR 144.51(o) and</del>	63.1.4 The Department may prescribe aquifer cleanup and monitoring where	



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<del>144.52(a)(6) shall, in the case of a Class III project which underlies or is in an aquifer which has been exempted under Sec. 146.04, also demonstrate adequate protection of USDWs. The Director shall prescribe aquifer cleanup and monitoring where he deems it necessary and feasible to insure adequate protection of USDWs.</del>	the Department deems it necessary and feasible to insure adequate protection of USDWs.	
<del>(b) Requirements for Class IV wells. Prior to abandoning a Class IV well, the owner or operator shall close the well in accordance with 40 CFR 144.23(b).</del>		
(c) Requirements for Class V wells. (1) Prior to abandoning a Class V well, the owner or operator shall close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 141 or may otherwise adversely affect the health of persons. Closure requirements for motor vehicle waste disposal wells and large-capacity cesspools are reiterated at Sec. 144.89.	63.2 Requirements for Major Class V wells. 63.2.1 Prior to abandoning a Major Class V well, the owner or operator shall close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under Delaware regulations or may otherwise adversely affect the health of any person or persons. Closure requirements for motor vehicle waste disposal wells and large-capacity cesspools are stated in Section 53.0 and Section 54.0.	
(2) The owner or operator shall dispose of or otherwise manage any soil, gravel,	63.2.2 The owner or operator shall dispose of or otherwise manage any	

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sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.	soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.	
	63.2.3 All wells are to be properly abandoned in accordance with the State of Delaware <u>Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems</u> and the <u>Regulations Governing the Construction and Use of Wells</u> , where applicable.	
Subpart B_Criteria and Standards Applicable to Class I Wells		Subpart B -- Criteria and Standards Applicable to Class I Wells
<b>Sec. 146.11 Criteria and standards applicable to Class I nonhazardous wells.</b>	<b>Section 64.0 Criteria and standards applicable to Class I nonhazardous wells.</b>	<b>§146.11 Applicability</b>
This subpart establishes criteria and standards for underground injection control programs to regulate Class I nonhazardous wells.	Sections 55.0-70.0 establish the criteria and standards for underground injection control programs to regulate Class I non-hazardous wells, as well as any Class V well that injects through or directly into a USDW.	This subpart establishes criteria and standards for underground injection control programs to regulate Class I wells. All Class I injection wells listed under §122.22 (a)(1) are prohibited from being permitted in the State.
<b>Sec. 146.12 Construction requirements.</b>	<b>Section 65.0 Construction requirements for Class I non-hazardous wells.</b>	<b>§146.12 Construction Requirements.</b>
(a) All Class I wells shall be sited in such a fashion that they inject into a formation which is beneath the lowermost formation	65.1 All Class I wells shall be sited in such a fashion that they inject into a formation which is beneath the	(a) All Class I wells as established under §122.22 (a)(2) shall be sited in such a fashion that they inject into a formation

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containing, within one quarter mile of the well bore, an underground source of drinking water.	lowermost formation containing an underground source of drinking water within one-quarter (¼) mile of the well bore.	which is beneath the lower-most formation containing, within one quarter mile of the well bore, an underground source of drinking water.
(b) All Class I wells shall be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:	65.2 All Class I wells shall be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well and shall be new and unused for Class I wells. The number, thickness, type of materials, and length of casing shall be sufficient to protect the quality of drinking water resources and the integrity of the well and the confining strata. The final string of casing shall be made of seamless mild steel pipe having a minimum 0.500 inch wall thickness. An applicant who proposes to use pipe composed of other than 0.500 inch wall seamless mild steel for the final casing shall demonstrate that the proposed material and thicknesses will not compromise the integrity or operation of the well. All casing shall be consistent with the standards of the American Petroleum Institute Specification 5CT or American Society of Testing and Materials standard	(b) All Class I wells as established under §122.22 (a)(2) shall be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

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	ASTM A53 / A53M - 12 Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless. In determining and specifying casing and cementing requirements, the following factors shall be considered:	
(1) Depth to the injection zone;	65.2.1 Depth to the injection zone;	(1) Depth to the injection zone;
(2) Injection pressure, external pressure, internal pressure, and axial loading;	65.2.2 Injection pressure, external pressure, internal pressure, and axial loading;	(2) Injection pressure, external pressure, internal pressure, and axial loading;
(3) Hole size;	65.2.3 Hole size;	(3) Hole size;
(4) Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);	65.2.4 Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);	(4) Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);
(5) Corrosiveness of injected fluid, formation fluids, and temperatures;	65.2.5 Corrosiveness of injected fluid, formation fluids, and temperatures;	(5) Corrosiveness of injected fluid, formation fluids, and temperatures;
(6) Lithology of injection and confining intervals; and	65.2.6 Lithology of injection and confining intervals; and	(6) Lithology of injection and confining intervals; and
(7) Type or grade of cement.	65.2.7 Type or grade of cement.	(7) Type or grade of cement;
(c) All Class I injection wells, except those municipal wells injecting non-corrosive wastes, shall inject fluids through tubing	65.3 All Class I injection wells shall inject fluids through tubing with a packer set immediately above the	(c) All Class I injection wells as established under §122.22 (a)(2) shall inject fluids through tubing with a packer

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with a packer set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected service.	injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected service.	set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected service.
(1) The use of other alternatives to a packer may be allowed with the written approval of the Director. To obtain approval, the operator shall submit a written request to the Director, which shall set forth the proposed alternative and all technical data supporting its use. The Director shall approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Director may approve an alternative method solely for an individual well or for general use.	65.3.1 The use of other alternatives to a packer may be allowed with the written approval of the Department. To obtain approval, the operator shall submit a written request to the Department, which shall set forth the proposed alternative and all technical data supporting its use. The Department may approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Department may approve an alternative method solely for an individual well or for general use.	(1) The use of other alternatives to a packer may be allowed with the written approval of the Secretary. To obtain approval, the operator shall submit a written request to the Secretary, which shall set forth the proposed alternative and all technical data supporting its use. The Secretary shall approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Secretary may approve an alternative method solely for an individual well or for general use.
(2) In determining and specifying requirements for tubing, packer, or alternatives the following factors shall be considered:	65.3.2 In determining and specifying requirements for tubing, packer, or alternatives the following factors shall be considered:	(2) In determining and specifying requirements for tubing, packer, or alternatives, the following factors shall be considered:
(i) Depth of setting;	65.3.2.1 Depth of setting;	(i) Depth of setting;
(ii) Characteristics of injection fluid (chemical content, corrosiveness, and density);	65.3.2.2 Characteristics of injection fluid (chemical content, corrosiveness, and density);	(ii) Characteristics of injection fluid (chemical content, corrosiveness, and density);
(iii) Injection pressure;	65.3.2.3 Injection pressure;	(iii) Injection pressure;

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(iv) Annular pressure;	65.3.2.4 Annular pressure;	(iv) Annular pressure;
(v) Rate, temperature and volume of injected fluid; and	65.3.2.5 Rate, temperature and volume of injected fluid; and	(v) Rate, temperature and volume of injected fluid; and
(vi) Size of casing.	65.3.2.6 Size of casing.	(vi) Size of casing.
(d) Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Director. At a minimum, such logs and tests shall include:	65.4 Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Department. At a minimum, such logs and tests shall include:	(d) Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Secretary. At a minimum, such logs and tests shall include:
(1) Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.	65.4.1 Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.	(1) Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
(2) Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information, that	65.4.2 Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for	(2) Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information, which



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may arise from time to time as the construction of the well progresses. In determining which logs and tests shall be required, the following logs shall be considered for use in the following situations:	additional information, which may arise from time to time as the construction of the well progresses. In determining which logs and tests shall be required, the following logs shall be considered for use in the following situations:	may arise from time to time as the construction of the well progresses. In determining which logs and tests shall be required, the following logs shall be considered for use in the following situations:
(i) For surface casing intended to protect underground sources of drinking water:	65.4.2.1 For surface casing intended to protect underground sources of drinking water:	(i) For surface casing intended to protect underground sources of drinking water:
(A) Resistivity, spontaneous potential, and caliper logs before the casing is installed; and	65.4.2.1.1 Resistivity, spontaneous potential, and caliper logs before the casing is installed; and	(A) Resistivity, spontaneous potential, and caliper logs before the casing is installed; and
(B) A cement bond, temperature, or density log after the casing is set and cemented.	65.4.2.1.2 A cement bond, acoustic cement evaluation log, or density log after the casing is set and cemented.	(B) A cement bond, temperature, or density log after the casing is set and cemented.
(ii) For intermediate and long strings of casing intended to facilitate injection:	65.4.2.2 For intermediate and long strings of casing intended to facilitate injection:	(ii) For intermediate and long strings of casing intended to facilitate injection:
(A) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;	65.4.2.2.1 Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed; and	(A) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;
(B) Fracture finder logs; and		(B) Fracture finder logs; and
(C) A cement bond, temperature, or density log after the casing is set and cemented.	65.4.2.2.2 A cement bond, acoustic cement evaluation log, or density log after the casing is set and cemented.	(C) A cement bond, temperature, or density log after the casing is set and cemented.



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(e) At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class I wells:	65.5 At a minimum, the following information concerning the geologic formation shall be determined or calculated for new Class I wells:	(e) At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class I wells:
	65.5.1 Identification of the lowermost USDW. The applicant will be required to identify the base of the lowermost USDW at the injection well location. During construction, the applicant shall conduct tests and collect water samples, as needed, to identify the depth at which the TDS concentration of the aquifer exceeds 10,000 ppm. This demonstration shall be made using water samples, geophysical logs, drilling records and drill cuttings.	
	65.5.2 Demonstration of Confinement. The applicant shall conduct logging and testing as needed to demonstrate that the injected fluid will not migrate from the injection zone either vertically or horizontally into a USDW. The geologic layers overlying the injection aquifer shall serve as confining layers, preventing the upward movement of injected fluids into a USDW. Confinement shall be demonstrated using the appropriate geophysical logs, drilling records, cutting samples and core samples. Core samples shall be analyzed in a laboratory for porosity and vertical hydraulic conductivity.	

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	65.5.3 Selection of Monitoring Zones. The applicant shall be required to monitor in the vicinity of the injection well bore for upward movement of injected fluid. During construction, the applicant shall identify at least two (2) monitoring zones. One zone shall be at the base of the lowermost USDW, and the second will be an early-warning monitor zone below the lowermost USDW and above the primary confining unit. The monitoring zones must have adequate water production to allow periodic sampling, and the applicant shall identify the zones and provide technical justification for their selection using drilling records, cutting samples and geophysical logs.	
	65.5.4 Characteristics of the Injection Formation:	
(1) Fluid pressure;	65.5.4.1 Fluid pressure;	(1) Fluid pressure;
(2) Temperature;	65.5.4.2 Temperature;	(2) Temperature;
(3) Fracture pressure;	65.5.4.3 Fracture pressure;	(3) Fracture pressure;
(4) Other physical and chemical characteristics of the injection matrix; and	65.5.4.4 Other physical and chemical characteristics of the injection matrix; and	(4) Other physical and chemical characteristics of the injection matrix; and
(5) Physical and chemical characteristics of the formation fluids.	65.5.4.5 Physical and chemical characteristics of the formation fluids.	(5) Physical and chemical characteristics of the formation fluids.

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	65.6 In addition to complying with these regulations, all injection wells must be constructed in a manner that is in accordance with the State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> .	
	65.7 For Class I injection well permit approval, reasonable assurance is required that the project will function in compliance with these Regulations. Prior to applying for a Class I injection well permit, an exploratory well must be drilled and documented on the project site. The Department shall require an exploratory well for projects located in an area where available information concerning geologic or hydraulic confinement is deficient; or where existing information indicates that geologic or hydraulic confinement may be poor or incomplete (See Section 68.0).	
<b>Sec. 146.13 Operating, monitoring and reporting requirements.</b>	<b>66.0 Operating, monitoring and reporting requirements for Major Class V Injection Wells, Class V Injection Wells that inject into a confined aquifer and all Class I Injection Wells</b>	<b>§146.13 Operating, Monitoring and Reporting Requirements</b>
(a) Operating requirements. Operating requirements shall at a minimum, specify that:	66.1 Operating requirements. Operating requirements shall at a minimum, specify the following:	(a) Operating Requirements. Operating requirements shall, at a minimum, specify that:

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(1) Except during stimulation injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water.	66.1.1 Except during stimulation, injection pressure at the wellhead shall not exceed a maximum, which shall be calculated, so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water.	(1) Except during stimulation injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water.
(2) Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.	66.1.2 Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.	(2) Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.
(3) Unless an alternative to a packer has been approved under Sec. 146.12(c), the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Director and a pressure, also approved by the Director, shall be maintained on the annulus.	66.1.3 For Class I injection wells, unless an alternative to a packer has been approved under Section 65.0, the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Department and a pressure, also approved by the Department, shall be maintained on the annulus.	(3) Unless an alternative to a packer has been approved under §146.12(c), the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Secretary and a pressure, also approved by the Secretary shall be maintained on the annulus.
(b) Monitoring requirements. Monitoring requirements shall, at a minimum, include:	66.2 Monitoring requirements for Major Class V Injection Wells, Class V that inject into a confined aquifer and all Class I Injection Wells. Monitoring	(b) Monitoring Requirements. Monitoring requirements shall, at a minimum, include:

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	requirements shall, at a minimum, include:	
(1) The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;	66.2.1 The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;	(1) The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;
(2) Installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;	66.2.2 Installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;	(2) Installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;
(3) A demonstration of mechanical integrity pursuant to Sec. 146.8 at least once every five years during the life of the well; and	66.2.3 A demonstration of mechanical integrity pursuant to Section 61.0 at least once every three (3) years during the life of the well; and	(3) A demonstration of mechanical integrity pursuant to §146.08 at least once every five years during the life of the well; and
(4) The type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured and the frequency of monitoring.	66.2.4 The type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured, and the frequency of monitoring.	(4) The type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured and the frequency of monitoring.
	66.2.5 Monitoring. 66.2.5.1 Monitoring of the injection zone: At a minimum, the permittee is required to monitor the pressure buildup in the injection zone annually, including at a minimum, a shut-down of the well for a time	

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	sufficient to conduct a valid observation of the pressure fall-off curve.	
	66.2.5.2 Groundwater monitoring for Class I injection wells: When prescribing a monitoring system, the permittee shall also be required to monitor wells above the injection zone near the injection well, field or project.	
	66.2.5.2.1 The permittee shall be able to monitor the following:	
	66.2.5.2.1.1. The absence of fluid movement adjacent to the well bore, and;	
	66.2.5.2.1.2. The long-term effectiveness of the confining zone.	
	66.2.5.2.2. Monitor wells used to meet the requirements of subsection 66.2.5.2.1 shall be sampled periodically. The frequency of sampling and constituents to be analyzed shall be specified in the permit and shall be representative of the monitored activity.	
	66.2.5.2.3. Monitor wells used to meet the requirements of subsection 66.2.5.2.1.1 (above) shall be located within 150 feet of the injection well unless the applicant can demonstrate, through a hydrogeologic study, that a monitor well located at a greater distance will be capable of adequately	

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	monitoring fluid movement adjacent to the borehole.	
	66.2.5.2.4. For Class I wells, the permittee shall monitor a zone below the base of the underground source of drinking water, if a zone is available, and at least one zone within, and near the base of, the underground source of drinking water.	
	66.2.5.2.5. The Department may also require any of the following when needed to provide reasonable assurance that the requirements of subsection 66.2.5.2 are being met:	
	66.2.5.2.5.1. Continuous monitoring for pressure changes in the first aquifer overlying the confining zone.	
	66.2.5.2.5.2. Continuous monitoring for pressure changes in any monitor well constructed under 66.2.5.2.5.1, above,	
	66.2.5.2.5.3. Periodic (minimum of quarterly) monitoring of groundwater quality in the first aquifer overlying the injection zone,	
	66.2.5.2.5.4. Periodic monitoring of groundwater quality in the lowermost underground source of drinking water.	
	66.2.5.2.5.5. Periodic additional monitoring to determine whether fluid movement caused by underground injection activity is occurring into or	



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	between underground sources of drinking water.	
	66.2.5.2.5.6 Periodic monitoring of groundwater quality in the injection zone.	
	66.2.5.2.6 Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.	
(c) Reporting requirements. Reporting requirements shall, at a minimum, include:	66.3 Reporting requirements. Reporting requirements shall, at a minimum, include:	(c) Reporting Requirements. Reporting requirements shall, at a minimum, include:
(1) Quarterly reports to the Director on:	66.3.1 Quarterly reports to the Department on:	(1) Quarterly reports to the Secretary on:
(i) The physical, chemical and other relevant characteristics of injection fluids;	66.3.1.1 The physical, chemical and other relevant characteristics of injection fluids;	(i) The physical, chemical and other relevant characteristics of injection fluids;
(ii) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and	66.3.1.2 Monthly average, maximum and minimum values for injection pressure, flow rate and volume, annular pressure; and	(ii) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and
(iii) The results of monitoring prescribed under paragraph (b)(4) of this section.	66.3.1.3 The results of monitoring prescribed under subsection 66.2.4.	(iii) The results of monitoring prescribed under subparagraph (b)(4) of this section.
(2) Reporting the results, with the first quarterly report after the completion, of:	66.3.2 The first quarterly report after the completion of the monitoring shall include the following (at a minimum):	(2) Reporting the results, with the first quarterly report after the completion, of:

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(i) Periodic tests of mechanical integrity;	66.3.2.1 Periodic tests of mechanical integrity;	(i) Periodic tests of mechanical integrity;
(ii) Any other test of the injection well conducted by the permittee if required by the Director; and	66.3.2.2 Any other test of the injection well conducted by the permittee if required by the Department; and	(ii) Any other test of the injection well conducted by the permittee if required by the Secretary, and
(iii) Any well work over.	66.3.2.3 Any well work/maintenance (including repairs).	(iii) Any well work over.
(d) Ambient monitoring. (1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Director shall require the owner or operator to develop a monitoring program. At a minimum, the Director shall require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.		
(2) When prescribing a monitoring system the Director may also require:		
(i) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator shall, on a quarterly basis, sample the aquifer and	66.2.5.2.5.1. Continuous monitoring for pressure changes in the first aquifer overlying the confining zone.	

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analyze for constituents specified by the Director;		
(ii) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by the Director, or to provide other site specific data;	66.2.5.2.5.6 The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by the Department, or to provide other site specific data.	
(iii) Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;	66.2.5.2.5.3. Periodic monitoring of groundwater quality in the first aquifer overlying the injection zone.	
(iv) Periodic monitoring of the ground water quality in the lowermost USDW; and	66.2.5.2.5.4. Periodic monitoring of groundwater quality in the lowermost underground source of drinking water.	
(v) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.	66.2.5.2.5.5. Periodic additional monitoring to determine whether fluid movement caused by underground injection activity is occurring into or between underground sources of drinking water	
<b>Sec. 146.14 Information to be considered by the Director.</b>	<b>Section 67.0 Information to be considered by the Department.</b>	<b>§146.14 Information to be Considered by the Secretary</b>
This section sets forth the information which must be considered by the Director in authorizing Class I wells. For an existing or converted new Class I well the Director may rely on the existing permit file for those items of information listed below which are current and accurate in the file. For a newly drilled Class I well, the Director shall require the submission of all the information listed below. For both	67.1 This Section sets forth the information which shall be considered by the Department in authorizing Class I wells or Major Class V wells. For an existing or converted new Class I or Major Class V well, the Department may rely on the existing permit file for those items of information listed below which are current and accurate in the file. For a newly drilled Class I or Major	This section sets forth the information which must be considered by the Secretary in authorizing Class I wells. For a newly drilled Class I well, the Secretary shall require the submission of all the information listed below. For Class I wells certain maps, cross-sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, readily

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
existing and new Class I wells certain maps, cross-sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, readily available to the Director (for example, in the permitting agency's files) and sufficiently identified to be retrieved. <del>In cases where EPA issues the permit all the information in this section must be submitted to the Administrator.</del>	Class V well, the Department shall require the submission of all the information listed below. For both existing and new Class I or Major Class V wells, certain maps, cross-sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, are readily available to the Department and to the Applicant or Permittee, and are sufficiently identified to be retrieved.	available to the Secretary (for example, in the permitting agency's files) and sufficiently identified to be retrieved.
(a) Prior to the issuance of a permit for an existing Class I well to operate or the construction or conversion of a new Class I well the Director shall consider the following:	67.2 Prior to the issuance of a permit for an existing Class I or Major Class V well to operate or the construction or conversion of a new Class I or Major Class V well the Department shall consider the following:	(a) Prior to the issuance of a permit for the construction of a Class I well the Secretary shall consider the following:
(1) Information required in 40 CFR 144.31 and 144.31(g);	67.2.1 Information required in Section 32.0.	(1) Information required in §§122.4;
(2) A map showing the injection well(s) for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of	67.2.2 A map showing the injection well(s) for which a permit is sought and the major area of review. Within the area of review, the map must show the number, or name, and location of all production wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show	(2) A map showing the injection well(s) for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known

Current FED regs Part 146	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
public record is required to be included on this map;	faults, if known or suspected. Only information of public record is required to be included on this map;	or suspected. Only information of public record is required to be included on this map;
(3) A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require;	67.2.3 A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Department may require;	(3) A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Secretary may require;
(4) Maps and cross sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;	67.2.4 Maps and cross-sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;	(4) Maps and cross sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;
(5) Maps and cross sections detailing the geologic structure of the local area;	67.2.5 Maps and cross-sections detailing the geologic structure of the local area;	(5) Maps and cross sections detailing the geologic structure of the local area;
(6) Generalized maps and cross sections illustrating the regional geologic setting;	67.2.6 Generalized maps and cross-sections illustrating the regional geologic setting;	(6) Generalized maps and cross sections illustrating the regional geologic setting;
(7) Proposed operating data:	67.2.7 Proposed operating data:	(7) Proposed operating data:

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
(i) Average and maximum daily rate and volume of the fluid to be injected;	67.2.7.1 Average and maximum daily rate and volume of the fluid to be injected;	(i) Average and maximum daily rate and volume of the fluid to be injected;
(ii) Average and maximum injection pressure; and	67.2.7.2 Average and maximum injection pressure; and	(ii) Average and maximum injection pressure; and
(iii) Source and an analysis of the chemical, physical, radiological and biological characteristics of injection fluids;	67.2.7.3 Source and an analysis of the chemical, physical, radiological and biological characteristics of injection fluids;	(iii) Source and an analysis of the chemical, physical, radiological and biological characteristics of injection fluids;
(8) Proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the receiving formation;	67.2.8 Proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the receiving formation;	(8) Proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of other information on the receiving formation;
(9) Proposed stimulation program;	67.2.9 Proposed stimulation program;	(9) Proposed stimulation program;
(10) Proposed injection procedure;	67.2.10 Proposed injection procedure;	(10) Proposed injection procedure;
(11) Schematic or other appropriate drawings of the surface and subsurface construction details of the well.	67.2.11 Schematic or other appropriate drawings of the surface and subsurface construction details of the well.	(11) Schematic or other appropriate drawings of the surface and subsurface construction details of the well.
(12) Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any underground	67.2.12 Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into	(12) Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any underground



Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
source of drinking water;	any underground source of drinking water;	source of drinking water;
(13) Plans (including maps) for meeting the monitoring requirements in Sec. 146.13(b);	67.2.13 Plans (including maps) for meeting the monitoring requirements in subsection 66.2.;	(13) Plans (including maps) for meeting the monitoring requirements in §146.13(b);
(14) For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under 40 CFR 144.55;	67.2.14 For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under Section 47.0;	(14) For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under §122.34;
(15) Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program; and	67.2.15 Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program; and	(15) Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program; and
(16) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by 40 CFR 122.42(g).	67.2.16 A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well.	(16) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by §122.32(g).
(b) Prior to granting approval for the operation of a Class I well the Director shall consider the following information:	69.1.5 Prior to granting approval for the operation of a Class I or Major Class V well the Department shall consider the following information:	(b) Prior to granting approval for the operation of a Class I well the Secretary shall consider the following information:
(1) All available logging and testing	69.1.5.1 All available logging and	(1) All available logging and testing



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program data on the well;	testing program data on the well;	program data on the well;
(2) A demonstration of mechanical integrity pursuant to Sec. 146.8;	69.1.5.2 A demonstration of mechanical integrity pursuant to Section 61.0;	(2) A demonstration of mechanical integrity pursuant to §146.08;
(3) The anticipated maximum pressure and flow rate at which the permittee will operate;	69.1.5.3 The anticipated maximum pressure and flow rate at which the permittee will operate;	(3) The anticipated maximum pressure and flow rate at which the permittee will operate;
(4) The results of the formation testing program;	69.1.5.4 The results of the formation testing program;	(4) The results of the formation testing program;
(5) The actual injection procedure;	69.1.5.5 The actual injection procedure;	(5) The actual injection procedure;
(6) The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and	69.1.5.6 The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone;	(6) The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and
(7) The status of corrective action on defective wells in the area of review.	69.1.5.7 The status of corrective action on defective wells in the area of review; and	(7) the status of corrective action on defective wells in the area of review.
	69.1.5.8 Potential impact on a USDW.	
(c) Prior to granting approval for the plugging and abandonment of a Class I well the Director shall consider the following information:	67.3 Prior to granting approval for the plugging and abandonment of a Class I or Major Class V well the Department shall consider the following information:	(c) Prior to granting approval for the plugging and abandonment of a Class I well the Director shall consider the following information:
(1) The type and number of plugs to be used;	67.3.1 The type and number of plugs to be used;	(1) The type and number of plugs to be used;

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(2) The placement of each plug including the elevation of the top and bottom;	67.3.2 The placement of each plug including the elevation of the top and bottom;	(2) The placement of each plug including the elevation of the top and bottom;
(3) The type and grade and quantity of cement to be used;	67.3.3 The type and grade and quantity of cement to be used;	(3) The type and grade and quantity of cement to be used;
(4) The method for placement of the plugs; and	67.3.4 The method for placement of the plugs; and	(4) The method for placement of the plugs; and
(5) The procedure to be used to meet the requirement of Sec. 146.10(c).	67.3.5 The procedure to be used to meet the requirement of Section 63.0.	(5) The procedure to be used to meet the requirements of §146.10(c).
<del>Subpart C_Criteria and Standards Applicable to Class II Wells (146.21-24)</del>		
<del>Subpart D_Criteria and Standards Applicable to Class III Wells (146.31-34)</del>		
<del>Subpart E_Criteria and Standards Applicable to Class IV Injection Wells [Reserved]</del>		
Subpart F_Criteria and Standards Applicable to Class V Injection Wells		
<b>Sec. 146.51 Applicability.</b>		
This subpart sets forth criteria and standards for underground injection control programs to regulate all injection not regulated in subparts B, <del>C, D, and E.</del>		
(a) Generally, wells covered by this subpart inject non-hazardous fluids into or above formations that contain underground sources of drinking water. It includes all wells listed in Sec. 146.5(e) but is not		

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limited to those types of injection wells.		
<del>(b) It also includes wells not covered in Class IV that inject radioactive material listed in 10 CFR part 20, appendix B, table H, column 2.</del>		
<del>Subpart G_Criteria and Standards Applicable to Class I Hazardous Waste Injection Wells</del>		
END PART 146		
	<b>68.0 Exploratory Wells.</b>	
	68.1 A permit to construct an exploratory well into a USDW shall be denied by the Department if the construction of the well itself will be a source of pollution as defined in 7 Del.C. §6002 or any amending or superseding legislation. If the construction of the well itself is not a source of pollution, the permit shall be issued with conditions to meet the requirements of subsections 68.3 through 68.7 below.	
	68.2 An exploratory well under the Underground Injection Control Program is drilled for the specific purpose of obtaining information to determine the feasibility of underground injection at the proposed site. An exploratory well may be required, based on available geological and physical data.	
	68.3 At a minimum, the exploratory	

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	well tests shall be designed to determine the groundwater quality profile and make a preliminary assessment of the adequacy of the confining interval and injection zone potentiall.	
	68.4 The information provided with the application to construct and test an exploratory well shall include but is not limited to the following:	
	68.4.1 Plan of the injection project;	
	68.4.2 Well inventory as described in Area of Review (Section 59.0);	
	68.4.3 Proposed future use of the exploratory well;	
	68.4.4 Drilling and testing plan for the exploratory well;	
	68.4.5 Source and composition of any fluids to be used for injection testing; and	
	68.4.6 Abandonment plan.	
	68.5 Injection testing.	
	68.5.1 The permittee may conduct injection tests under the exploratory well program, for such time requested by the permittee, not to endanger the underground sources of drinking water, and approved by the Department subject to the provisions of subsection 68.4.2.	
	68.5.2 The exploratory well shall be constructed and tested so that it is in	

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	compliance with the Permitting Process (Section 5.0). The use of treated or untreated municipal (domestic) or industrial effluent, or reverse osmosis concentrate is prohibited for injection testing conducted under the exploratory testing program.	
	68.6 An exploratory well may be reclassified to a monitor well if the appropriate permits have been obtained; otherwise, the exploratory well must be properly plugged and abandoned. An exploratory well may be reclassified as a Class I test injection well or a Class V well if the appropriate permits have been obtained. If the applicant intends to apply for a permit to reclassify an exploratory well to a Class I test injection well, the exploratory well shall be constructed to meet the minimum Class I well construction standards contained in these regulations and the State of Delaware <u>Regulations Governing the Construction and Use of Wells</u> .	
	68.7 The Department shall perform at its discretion, periodic inspections at certain stages of the approved construction activities.	
	<b>69.0 Class I and Major Class V</b>	

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	<b>Test Injection Well Construction and Operation Requirements.</b>	
	69.1 General. 69.1.1 The Department shall deny a construction permit if construction of the well itself may be a source of pollution.	
	69.1.2 A test injection well will be required, and may be used as an injection well, with approval by the Department. Upon completion of required testing, the applicant may apply for an operating permit, to convert the test well to an operational well.	
	69.1.3 For Class I injection well operation, reasonable assurance is required that the project will function in compliance with these regulations. The Department shall require a test injection well for all Class I injection well facilities. The Department may require a test well for Major Class V injection well facilities. A Department-approved injection test must be performed on each test well.	
	69.1.4 For a Class I injection well, issuance of a permit does not obligate the Department to authorize any operation of the well, unless reasonable assurance has been provided that the well can operate in	

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	compliance with these regulations.	
(see Fed Regs Sec. 146.14(a)(16) for 69.1.5)	69.1.5 Prior to granting approval for the operation of a Class I or Major Class V well the Department shall consider the following information:	
	69.1.5.1 All available logging and testing program data on the well;	
	69.1.5.2 A demonstration of mechanical integrity pursuant to Section 61.0;	
	69.1.5.3 The anticipated maximum pressure and flow rate at which the permittee will operate;	
	69.1.5.4 The results of the formation testing program;	
	69.1.5.5 The actual injection procedure;	
	69.1.5.6 The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone;	
	69.1.5.7 The status of corrective action on defective wells in the area of review; and	
	69.1.5.8 Potential impact on a USDW.	
	69.2 Information Requirements. Information to be submitted with the application for a permit to construct a test/injection well shall include but is not limited to the following:	
	69.2.1 A map showing the location of the proposed injection wells or well	



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	<p>field area for which a permit is sought and the applicable area of review. Within the area of review, the map shall show the number or name, and location of all production wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, public water systems, mines (surface and subsurface), water wells and other pertinent surface features including residences and roads. The map shall also show geological faults, if known or suspected. Only information of public record and, in addition, pertinent information known to the applicant is required to be included on this map;</p>	
	<p>69.2.2 A A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone, confining zone, or proposed monitoring zone. Such data shall include a description of each well's type, well construction data, date drilled, location, depth, record of plugging or completion, and any additional information in the applicant's possession about the potential for fluids to migrate into, or in the direction of, an underground source of drinking water;</p>	
	<p>69.2.3 Maps and cross sections indicating the general vertical and</p>	

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
	lateral limits within the area of review of all underground sources of drinking water, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;	
	69.2.4 Maps and cross sections detailing the hydrology and geologic structures of the local area;	
	69.2.5 Generalized maps and cross sections illustrating the regional geologic setting;	
	69.2.6 Proposed operating data.	
	69.2.6.1 Average and maximum daily rate and volume of the fluid to be injected;	
	69.2.6.2 Average and maximum injection pressure; and	
	69.2.6.3 Source and an analysis of the chemical, physical, radiological and biological characteristics of injection fluids (injectate). For Class I wells injecting domestic effluent, a demonstration that the effluent quality meets the standards at all times (secondary treatment). For all other Class I wells, a demonstration that the effluent quality is not a hazardous waste;	
	69.2.7 Proposed formation testing	

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	program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the injection zone;	
	69.2.8 Proposed stimulation program;	
	69.2.9 Proposed injection procedure;	
	69.2.10 Engineering drawings of the surface and subsurface construction details of the system, including design features for surge control and water hammer protection;	
	69.2.11 Contingency plans to cope with all shut-ins or well failures, or to prevent migration of fluids into an underground source of drinking water, including emergency discharge provisions;	
	69.2.12 Plans (including maps) and proposed monitoring data to be reported for meeting the monitoring requirements in these regulations;	
	69.2.13 For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under Corrective Action;	
	69.2.14 Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing and coring program; and	

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
	69.2.15 A certificate that the applicant has ensured, through a performance bond or other appropriate means as required by Financial Responsibility, the resources necessary to close, plug or abandon the well.	
	69.3 Operational Testing. 69.3.1 For Class I test injection wells, the permit includes a period of temporary injection operation for the purposes of long term testing, to determine potential fluid migration. Prior to commencement of operational testing:	
	69.3.1.1 Construction of the injection well shall be complete and the permittee shall submit an engineer's Notice of Completion of Construction to the Department;	
	69.3.1.2 Each well shall first be tested for integrity of construction, and shall be followed by a short term injection test of such duration to allow for the prediction of the operating pressure;	
	69.3.1.3 The permittee shall submit the following information:	
	69.3.1.3.1 A copy of the borehole television survey(s);	
	69.3.1.3.2 Geophysical logs; and	
	69.3.1.3.3 Mechanical integrity test	

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	data.	
	69.3.1.4 Data obtained during the short term injection testing conducted pursuant to subsection 69.3.1.2.	
	69.3.1.5 Confining zone data;	
	69.3.1.6 Background water quality data for the injection and monitor zones;	
	69.3.1.7 Waste-stream analysis;	
	69.3.1.8 As-built well construction specifications, and	
	69.3.1.9 Other data obtained during well construction which demonstrates that the well will operate in compliance with these regulations.	
	69.3.2 The emergency discharge method (subsection 69.2.11) shall be fully operational and no emergency discharge shall occur until the permittee has obtained all necessary Department permits.	
	69.3.3 Any corrective action required under Corrective Action, shall be completed.	
	69.3.4 Prior to granting approval for operational testing of a Class I well, the Department shall consider the following information:	
	69.3.4.1 All available logging and testing program data on the well;	
	69.3.4.2 A demonstration of mechanical integrity pursuant to	

Current FED regs Part 146	Proposed State regs (based on the FED regs)	Current STATE regs
	Mechanical Integrity;	
	69.3.4.3 The anticipated maximum pressure and flow rate at which the permittee will operate;	
	69.3.4.4 The results of the formation testing program;	
	69.3.4.5 The actual injection procedure;	
	69.3.4.6 The compatibility of injectate with fluids in the injection zone and minerals in both the injection zone and the confining zone;	
	69.3.4.7 The status of corrective action on defective wells in the area of review; and	
	69.3.4.8 The information submitted to the Department under subsection 69.2.	
	69.3.5 Written authorization for operational testing shall be obtained from the Department. Authorization shall be for up to two (2) years or until the expiration date of the Class I test injection well permit, whichever time period is shorter, and is nonrenewable. The authorization shall specify the conditions under which operational testing is approved. The authorization shall include, but is not limited to, the following:	
	69.3.5.1 Injection pressure limitation;	

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	69.3.5.2 Injection flow rate limitation;	
	69.3.5.3 Injection well monitoring requirements;	
	69.3.5.4 Effluent monitoring requirements;	
	69.3.5.5 Weekly groundwater sampling of monitor wells;	
	69.3.5.6 Monthly specific injectivity testing;	
	69.3.5.7 Reporting requirements, and	
	69.3.5.8 An expiration date for the operational testing period not to exceed two (2) years.	
	69.3.6 Before authorizing operational testing, the Department shall conduct an inspection of the facility to determine if the conditions of the permit have been met.	
	69.3.7 If requested by the permittee, the Department shall allow a modified sampling schedule, after a minimum of six (6) months of operational testing, if the data indicate that the parameter values have stabilized. However, a sampling frequency of less than once per month shall not be allowed.	
	69.3.8 For Class I injection wells, the duration of the operational testing period shall not exceed two (2) years or the expiration date of the	



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	construction permit, whichever is less. If the Department has not issued an intent to issue an operation permit for the injection well(s) by the end of the operational testing period, the permittee shall cease injection.	
	69.3.9 For a Class I injection well, if an operation permit has not been obtained for the well within two (2) years after the cessation of operational testing, the permittee shall submit an application to the Department on form "Well Abandonment Application" to plug and abandon the well.	
	<b>69.4 Class I and Major Class V – Injection Well Operation Permit.</b>	
	69.4.1 General Requirements. 69.4.1.1 An underground injection control permit shall be obtained for each Class I or Major Class V injection well. For multiwell injection systems, a separate UIC permit application need not be submitted for each well.	
	69.4.1.2 Copies of mill certificates for casing used in the well(s) construction. The owner shall retain the original records.	
	69.4.2 Prior to granting approval for the operation of a Class I or Major Class V well, the Department shall consider the following information which, for Class I or Major Class V wells, was obtained	

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	during construction and operational testing under the construction permit:	
	69.4.2.1 All available logging and testing program data and construction data on the well or well field;	
	69.4.2.2 A satisfactory demonstration of mechanical integrity for all new wells pursuant to Section 61.0.;	
	69.4.2.3 The actual operating data where feasible, or the anticipated maximum pressure and flow rate at which the permittee will operate the well;	
	69.4.2.4 The results of the formation testing program;	
	69.4.2.5 The actual injection procedure;	
	69.4.2.6 For Class I or Major Class V wells, the compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and	
	69.4.2.7 The status of corrective action on defective wells in the area of review.	
	69.4.3 Renewal of the Operation of Class I or Major Class V Wells.	
	69.4.3.1 The permittee shall submit an application to renew the permit of a Class I or Major Class V	

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	well to the Department at least 180 days before the expiration date of the current operation permit.	
	69.4.3.2 The renewal application shall include the following:	
	69.4.3.2.1 An evaluation of the size of the area of review based on actual operation and monitoring data;	
	69.4.3.2.2 Updated area of review information required under subsection 69.2;	
	69.4.3.2.3 A wastestream analysis representative of the fluids which are currently being injected;	
	69.4.3.2.4 The process types or categories which are a source of the fluid being injected;	
	69.4.3.2.5 A satisfactory demonstration of mechanical integrity for the well(s) pursuant to Section 61.0;	
	69.4.3.2.6 Results of groundwater and other monitoring data obtained since the last permit was issued. The permittee shall provide a tabular and graphical presentation of all groundwater monitoring data required by this subparagraph, unless;	
	69.4.3.2.6.1 The monitoring results for a parameter are below detectable limits, or	
	69.4.3.2.6.2 The parameter was not required to be monitored under the	

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	current permit.	
	69.4.3.2.6.3 Results of all specific injectivity and pressure fall-off information obtained since the well began operation, or the date of the most recent repermitting of the well if all available information were submitted at that time; and	
	69.4.3.2.6.4 Financial responsibility information required by subsection 44.1.7 based on an updated plugging and abandonment plan and cost estimate.	
	69.4.4 The operation of a Class I or Major Class V well shall not be repermitted unless the applicant has made the following demonstrations:	
	69.4.4.1 Available water quality monitoring data does not indicate that fluid movement into or between underground sources of drinking water is occurring as a result of injection activity, except as authorized by the Department;	
	69.4.4.1.2 Mechanical integrity has been demonstrated under Section 61.0;	
	69.4.4.1.3 Financial responsibility has been demonstrated; and	
	69.4.4.1.4 Other applicable rules of this chapter have been met.	
	70.0 Class VI Injection Well Rules	

Current FED regs Part 146	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
	<i>This section is reserved</i>	

Current FED regs Part 147	<i>Proposed State regs (based on the FED regs)</i>	Current STATE regs
<b>Part 147 – State UIC Program</b>	<b>Part 147 – State UIC Program Sections 1.0-2.0</b>	
Subpart A_General Provisions		
<b>Sec. 147.1 Purpose and scope.</b>		
(a) This part sets forth the applicable Underground Injection Control (UIC) programs for each of the states, territories, and possessions identified pursuant to the Safe Drinking Water Act (SDWA) as needing a UIC program.		
(b) The applicable UIC program for a State is either a State-administered program approved by EPA, or a federally-administered program promulgated by EPA. In some cases, the UIC program may consist of a State-administered program applicable to some classes of wells and a federally-administered program applicable to other classes of wells. Approval of a State program is based upon a determination by the Administrator that the program meets the requirements of section 1422 or section 1425 of the Safe Drinking Water Act and the applicable provisions of parts 124, 144, and 146 of this chapter. A federally-administered program is promulgated in those instances where the state has failed to submit a program for approval or where the submitted program does not meet the minimum statutory and regulatory requirements.		

Current FED regs Part 147	<i>Proposed State regs (based on the FED regss)</i>	Current STATE regs
<p><del>(c) In the case of State programs approved by EPA pursuant to section 1422 of the SDWA, each State subpart describes the major elements of such programs, including State statutes and regulations, Statement of Legal Authority, Memorandum of Agreement, and Program Description. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators have been incorporated by reference pursuant to regulations of the Office of the Federal Register. Material incorporated by reference is available for inspection in the appropriate EPA Regional Office, in EPA Headquarters, and at the Office of the Federal Register Information Center, Room 8301, 800 North Capitol Street, NW., suite 700, Washington, DC. Other State statutes and regulations containing standards and procedures that constitute elements of the State program but do not apply directly to owners or operators have been listed but have not been incorporated by reference.</del></p>		
<p><del>(d) In the case of State programs promulgated under section 1422 that are to be administered by EPA, the State subpart makes applicable the provisions of parts 124, 144, and 146, and provides additional requirements pertinent to the specific State program.</del></p>		



Current FED regs Part 147	Proposed State regs (based on the FED regss)	Current STATE regs
<del>(e) Regulatory provisions incorporated by reference (in the case of approved State programs) or promulgated by EPA (in the case of EPA-administered programs), and all permit conditions or permit denials issued pursuant to such regulations, are enforceable by the Administrator pursuant to section 1423 of the SDWA.</del>		
<del>(f) The information requirements located in the following sections have been cleared by the Office of Management and Budget: Sections 147.104, 147.304, 147.754, 147.904, 147.1154, 147.1354, 147.1454, 147.1654, 147.1954, and 147.2154.</del>  <del>The OMB clearance number is No. 2040-0042.</del>		
<b>Sec. 147.2 Severability of provisions.</b>	<b>Sec. 2.0 Severability of provisions.</b>	
The provisions in this part and the various applications thereof are distinct and severable. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of such provision to other persons or circumstances which can be given effect without the invalid provision or application.	The provisions in these Regulations and the various applications thereof are distinct and severable. If any provision of these Regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the validity of other provisions or the application of those other provisions to other persons or circumstances which can be given effect without the invalid provision or application.	
[each state has its own Subpart; only DE is shown]		

Current FED regs Part 147	Proposed State regs (based on the FED regss)	Current STATE regs
<b>Subpart I_Delaware</b>		
<b>Sec. 147.400 State-administered program.</b>	<b>Sec. 1.0 State-administered program.</b>	
The UIC program for all classes of wells in the State of Delaware, except those wells on Indian lands, is the program administered by the Delaware Department of Natural Resources and Environmental Control approved by EPA pursuant to section 1422 of the SDWA. Notice of this approval was published in the FR on April 5, 1984 (49 FR 13525); the effective date of this program is May 7, 1984. This program consists of the following elements, as submitted to EPA in the State's program application:	1.1 The Underground Injection Control (UIC) program for all classes of injection wells in the State of Delaware is administered by the Delaware Department of Natural Resources and Environmental Control (DNREC) and approved by the United States Environmental Protection Agency (EPA) pursuant to the <i>Safe Drinking Water Act</i> (SDWA). Notice of this approval was published in the Federal Register on April 5, 1984 (49 FR 13525); the effective date of this program was May 7, 1984. The UIC Regulations and the UIC permit program are adopted under the authority of Chapter 60 of Title 7 of the Delaware Code.	
	1.2 The Department may delegate any of the Department's powers, duties or functions to a director of a division, in accordance with 29 <b>Del. C.</b> §8003(6).	
(a) Incorporation by reference. The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Delaware. This		

Current FED regs Part 147	<i>Proposed State regs (based on the FED regss)</i>	Current STATE regs
incorporation by reference was approved by the Director of the OFR in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware, 19903. Copies may be inspected at the Environmental Protection Agency, Region III, 841 Chestnut Street, Philadelphia, Pennsylvania, 19107, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.		
(1) Delaware Environmental Protection Act, (Environmental Control) 7 Delaware Code Annotated, Chapter 60, Sections 6001-6060 (Revised 1974 and Cumm. Supp. 1988);		
(2) State of Delaware Regulations Governing Underground Injection Control, parts 122, 124 and 146 (Department of Natural Resources and Environmental Control), effective August 15, 1983.		
(b) Memorandum of agreement. The Memorandum of Agreement between EPA Region III and the Delaware Department of Natural Resources and Environmental Control, signed by the EPA Regional Administrator on March 28, 1984.		
(c) Statement of legal authority. Statement of the Delaware Attorney General for the		

Current FED regs Part 147	<i>Proposed State regs (based on the FED regss)</i>	Current STATE regs
Underground Injection Control Program, signed by the Attorney General on January 26, 1984.		
(d) Program Description. The Program Description and any other materials submitted as part of the application (August 10, 1983), or as supplements thereto (October 14, 1983).		
<b>Sec. 147.403 EPA-administered program--Indian lands.</b>		
(a) Contents. The UIC program for all classes of wells on Indian lands in Delaware is administered by EPA. This program consists of the UIC program requirements of 40 CFR parts 124, 144, 146, 148, and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.		
(b) Effective date. The effective date of the UIC program for Indian lands in Delaware is November 25, 1988.		
<b>END OF PART 147</b>	<b>END</b>	